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1928/30. Montana. Dept. of  
State Lands and  
Investments  
Report of the  
Commissioner of  
State Lands and  
Investments for

# STATE OF MONTANA



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## REPORT OF THE

# Commissioner of State Lands and Investments

For the Two Fiscal Years  
Beginning July 1st, 1928, and  
Terminating June 30th, 1930.

TO

THE HONORABLE J. E. ERICKSON  
GOVERNOR

PLEASE RETURN

I. M. BRANDJORD  
Commissioner of State Lands and Investments

NANITA B. SHERLOCK,  
Assistant Commissioner

L. E. CHOQUETTE,  
State Land Agent



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AMENDMENT TO ENABLING ACT  
PERMITTING MINERAL LEASES FOR A PERIOD  
NOT EXCEEDING TWENTY YEARS

In view of the fact that Section 11 of the Enabling Act as originally written restricts the term of leases to five years and also in view of the fact that a five-year term is regarded as being entirely too short for mineral leases, the following amendment to the Enabling Act approved August 11, 1921, is of considerable importance and interest to this state:

Public No. 48—67th Congress S. 252

An Act to Amend an Act approved Feby. 22, 1889, entitled "An Act to provide for the division of Dakota into two States and to enable the people of North Dakota, South Dakota, Montana, and Washington to form constitutions and State governments, and to be admitted into the Union on an equal footing with the original States, and to make donations of public lands to such States."

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That Section 11 of the Act entitled "(Quoted above)" approved February 22, 1889, be, and the same hereby is, amended by adding the following: Provided, However, That the State may, upon such terms as it may prescribe, grant such easements or rights in such lands as may be acquired in, to, or over the lands of private properties through proceedings in eminent domain: AND PROVIDED FURTHER, That any of such granted lands found, after title thereto has vested in the State, to be mineral in character, may be leased for a period of not longer than twenty years upon such terms and conditions as the Legislature may prescribe.

STATE OF MONTANA

REPORT

OF THE

Commissioner of State Lands  
and Investments

For the Two Fiscal Years  
Beginning July 1st, 1928, and  
Terminating June 30th, 1930.



OFFICERS OF THE DEPARTMENT OF  
STATE LANDS AND INVESTMENTS

The State Board of Land Commissioners is the governing board  
created by Section 4 of Article XI of the Constitution, and con-  
sists of the following officers:

Hon. J. E. Erickson, Governor, President  
Hon. Elizabeth Ireland, Superintendent of Public Instruction  
Hon. W. E. Harmon, Secretary of State  
Hon. L. A. Foot, Attorney General

Officers Under This Board:

I. M. BRANDJORD  
Commissioner and Secretary to the Board

NANITA B. SHERLOCK,  
Assistant Commissioner

L. E. CHOQUETTE,  
State Land Agent

RUTLEDGE PARKER,  
State Forester (Address Missoula)

L. L. WHITE,  
Forest Warden

# OFFICERS OF STATE LAND DEPARTMENT FROM 1891 TO 1930

YEAR	STATE BOARD OF LAND COMMISSIONERS				REGISTER**	LAND AGENT	STATE FORESTER
	Governor	Supt. Pub. Inst.	Secy. of State	Atty. General			
1890-1892	Jos. K. Toole	John Gannon	L. Rotwitt	H. J. Haskell		Granville Stuart	
1893-1894	John E. Rickards	E. A. Steere	L. Rotwitt	H. J. Haskell	S. A. Swigggett Appd. 3/25/1895	R. O. Hickman	
1895-1896	John E. Rickards	E. A. Steere	L. Rotwitt	H. J. Haskell	H. D. Moore	J. M. Page Henry Neill	
1897-1900	Robt. B. Smith	E. A. Carleton	T. S. Hogan	C. B. Nolan	Thos. D. Long John P. Schmit	Henry Neill	
1901-1904	Jos. K. Toole	W. W. Welch	Geo. M. Hays	James Donovan	John P. Schmit	Henry Neill	
1905-1908	Jos. K. Toole	W. E. Harmon	A. N. Yoder	Albert J. Galen	F. H. Ray	C. A. Whipple	C. W. Jungberg
1909-1912	Edw. L. Norris	W. E. Harmon	T. M. Swindlehurst	Albert J. Galen	Sidney Miller	C. A. Whipple	John C. Van Hook
1913-1916	S. V. Stewart	H. A. Davee	A. M. Alderson	D. M. Kelly	Sidney Miller	C. A. Whipple	John C. Van Hook
1917-1920	S. V. Stewart	May Trumper	C. T. Stewart	J. B. Foidexter S. C. Ford	H. V. Bailey	Geo. W. Cook	R. P. McLaughlin
1921-1924	Jos. M. Dixon	May Trumper	C. T. Stewart	W. D. Rankin L. A. Foot*	I. M. Brandjord	L. E. Choquette	Rutledge Parker
1925-1926	J. E. Erickson	May Trumper	C. T. Stewart***	L. A. Foot	I. M. Brandjord	L. E. Choquette	Rutledge Parker
1926-1928	J. E. Erickson	May Trumper	J. W. Mountjoy	L. A. Foot	I. M. Brandjord	L. E. Choquette	Rutledge Parker
1928-1930	J. E. Erickson	Elizabeth Ireland	W. E. Harmon	L. A. Foot	I. M. Brandjord	L. E. Choquette	Rutledge Parker

\* Mr. Foot served the last four months of Mr. Rankin's term in 1924.

It will be noted that there was a State Land Agent before there was a Register of State Lands. Mr. Granville Stuart, the first Land Agent, was appointed under an act of the state legislature approved March 6, 1891. The office of Register of State Lands was created by an act of the state legislature approved March 7, 1895. Mr. S. A. Swiggett was the first Register and assumed the duties of the office on March 25, 1895. Prior to the creation of the office of the Register the greater part of the routine business of the Land Office was transacted directly by the State Board of Land Commissioners. The Superintendent of Public Instruction acted as its secretary, and continued to serve in that capacity until March 19, 1909, on which date a general revision and codification of the State land laws took effect, under which the Register acts as secretary.

\*\* From and after July 1, 1928, the official title of the Register is Commissioner of State Lands and Investments.

\*\*\* The services of C. T. Stewart as Secretary of State terminated on March 4, 1927; R. N. Hawkins served as Secretary from March 5th to May 1st, 1927; William Powers served as Secretary from May 1st, 1927, to April 15, 1928, and John W. Mountjoy assumed the office April 16, 1928.

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STATE OF MONTANA  
DEPARTMENT OF STATE LANDS  
AND INVESTMENTS

Helena, Montana, October, 1930.

Hon. J. E. Erickson,  
Governor of the State of Montana.

My dear Governor:

Realizing in some measure what keen interest you are taking in this department as one of the instrumentalities of your administration for rendering helpful service to all the people of the State, I take special pleasure in being able to submit an encouraging report of the affairs of the Department of State Lands and Investments for the two fiscal years terminating June 30th, 1930.

In some aspects the years embraced by this report, have been like two good ships coming into port richly laden with precious merchandise both from nearby regions and distant countries—great stores of varied treasure, excellent for the immediate present, and auguring well for a greater future. The income for the fiscal year ending June 30th, 1929, was the largest ever received by this department during any one fiscal year in its history, and although the reduced crops and declining prices prevailing during 1929 and 1930 have made themselves felt, the decrease for the fiscal year ending June 30th, 1930, was less than \$52,000.00 below the high water mark set during the previous year. The receipts for the department during the two-year period reached the considerable total of \$9,705,676.98, of which \$3,125,881.34 was actual income, and \$6,579,795.64 represented receipts for the permanent funds, including repayments on investments.

Every dollar of the income accrues to the benefit of the public schools, the State itself and its various institutions, and it takes the place of another dollar which otherwise would have to be raised through direct taxes upon the people of the State.

During the two-year period more than 145,000 acres of State land was sold at a total price of more than \$2,067,000.00, not including the sale of "mortgage lands."

During the same period the State Board of Land Commissioners invested through this department exactly \$9,552,402.19, some of the funds invested belonging to other than the Land Grant Funds as fully explained in the report itself. The investments were made exclusively in general obligation bonds and State general fund warrants, and are as safe as the State itself; not a dollar of all these millions will be lost.

It is believed that these investments and the bonding service that this department is rendering, are especially helpful to the people of the State. The active competition of the State for the purchase of bonds results in a reasonable rate of interest, irrespective of temporary fluctuations of the bond market. The gradual repayment plan adopted by the State and embodied in the amortization bond results in the punctual re-

payment of the borrowed money during the term for which the bonds were issued and with the least possible hardship upon the taxpayers. It saves huge sums of interest, vastly improves the security, and ultimately the interest itself returns to the borrowers. The system is not far from perfection.

Through a measure sponsored by this department and now embodied in Chapter 70 of the 1929 Session Laws, the Montana Trust and Legacy Fund has become a reality. Under the plan of this legislation and Chapter 21 of the Constitution on which it is based, the State will accept gifts, donations, grants and legacies for the benefit of scientific, educational, benevolent and charitable work; hold the same in trust, invest them safely as **one common fund**, apportion the interest to each gift or contribution and pay it over to the proper beneficiary. Any number of funds coming from individuals or the State itself may be administered as parts of the Montana Trust and Legacy Fund. Through this plan the State is equipped to render a special service to its people, carrying out their most cherished ambitions and extending far into the future—a service that it would be difficult to obtain through other agencies. On June 30th, 1930, the total amount of the Montana Trust and Legacy Fund was \$79,381.28.

The permanent assets under the administration of this department, figured exactly in the same manner as two years ago, have increased more than one million dollars, and on June 30th, 1930, exceeded the substantial sum of \$69,367,000.00.

We are persistently trying to protect this vast heritage both for the present and the future. The accounting system of this department has been very materially improved, and we are engaged in the huge task of preparing a title record showing the status of every forty-acre tract granted to the State by the Federal Government, involving about one-sixteenth of the entire State. In this work we are minutely checking all lands granted to the State; numerous losses are being discovered, and for all of these we are selecting other lands. This big undertaking is paying the State well and is now more than half completed.

The security of the State's title to the Federal land grants has been materially improved by a recent decision of the Supreme Court of this State in the case of Phila Louise Newton vs. Frank Weiler, in which the Court holds that no title to State school lands can be acquired through adverse possession. This decision will protect the State in numerous instances.

Additional assets of considerable and enduring value have been discovered; it has been found that parts of great power sites located in the Flathead river in Lake county and in Sanders county, and several smaller power sites, formerly claimed by the United States, actually belong to the State of Montana as part of its school land grant. The title to these power sites is now being perfected through the Geological Survey and the Federal Power Commission.

Of the many auspicious events that have taken place during the last two years, the one of most far-reaching importance for this de-



partment is probably the proposal of President Hoover to turn over to the Western States the unappropriated and unreserved public lands within their borders for the benefit of the public schools; at least seven million acres of land are involved in our State.

The accumulation of wealth by this department is of far deeper significance than the gathering of wealth by individuals. The wealth of this department belongs to all the people; it helps every man, woman and child in the State; it aids in a small way in bringing into reality the noble ideals of the founders of this Republic of a great, free and enlightened people. To attain these ideals they established free public schools and set aside vast bodies of land for their perpetual maintenance. In administering this great heritage, we are trustees of the Fathers and their lofty ideals; of the stirring present with its problems; and of the dawning future and its hopes.

The various topics touched upon in this letter are explained somewhat in detail throughout the report by means of statistical tables and otherwise. The power sites acquired by the State and the President's proposal to grant the remainder of the public domain to the states are extensively discussed through separate reports previously written and embodied in this biennial report. Recommendations for new legislation affecting this department and many other subjects are also included.

Whatever measure of success this department may have attained is principally due to the faithful and painstaking work performed by the good men and women who are laboring with me in carrying on the daily grind of business. They are serving the people of the State with perfect sincerity, sympathetic understanding and a high degree of intelligence. The value of their services is not measured by the dollars that they receive as compensation.

Allow me to express my sincere appreciation of the fine treatment that you and the other members of the State Board of Land Commissioners have so uniformly and generously accorded me during my entire term of service; you have made my work exceedingly pleasant.

Very gratefully yours,

I. M. BRANDJORD,  
Commissioner of State Lands and Investments.

TABLE No. I  
INCOME FROM ALL SOURCES DURING FISCAL YEAR ENDING JUNE 30, 1929

Institutions and Funds to Which the Income Belongs	Rentals on Agricultural and Grazing Leases	Grazing Fees Collected by State Forester	Rentals on Oil and Gas Leases	Interest on Land Sales (C. P.'s)	Interest on Farm Mortgages	Interest on Bonds	Interest on Warrants	Interest on Bank Deposits	Fees and Penalties	TOTALS
State General Fund	\$391,054.64	\$ 4,018.72	\$ 53,104.23	\$276,499.49	\$244,809.59	\$329,500.98	\$ 58,060.11	\$ 19,007.85	\$ 10,450.89	\$ 10,450.89
Public Schools	1,369.35	143.00		4,402.25		24,655.13			*46.23	1,376,101.84
State University	7,034.02	15.00	90.00	3,655.11		10,138.25				30,569.73
Agri. Col.—Morrill Grant	1,023.85	651.76		2,028.60		25,164.69				20,932.38
Agri. Col.—Second Grant	4,905.00	194.38		5,841.51		26,990.14				28,868.90
School of Mines	5,553.98	272.40	534.51	2,079.14		30,701.81				38,465.54
State Normal Schools	3,029.65	63.50	890.90	1,597.29		9,887.87				39,498.23
Deaf and Dumb Asylum	3,615.05	317.76		1,605.85		9,915.55				14,578.31
State Reform School	5,440.92	668.35	1,528.25	5,911.63						15,454.21
Capitol Buildings	61.25			48.75		226.69				13,549.15
Soldiers' Home										398.78
Orphans' H. & Tub. San.										48.75
TOTALS	\$429,087.71	\$ 6,344.87	\$ 56,147.89	\$303,780.46	\$244,809.59	\$467,181.11	\$ 58,060.11	\$ 19,007.85	\$ 10,497.12	\$1,588,916.71

\* Refund of Apportionment to Glacier County.

This represents all the income, and nothing but the actual income from the Federal Land Grants, and from the permanent funds arising mainly from the sale of portions of these grants, received during the fiscal year ending June 30th, 1929. The figures given show the exact amounts collected without regard to refunds. When lands under lease are sold, unearned rentals paid are refunded; the total amount of all rentals refunded during the fiscal year was \$4,918.04. There are various other kinds of minor refunds.

Every dollar of the net income is used for the maintenance of the public schools and the various state institutions to which it belongs, with the exception that 5% of the total income for the public schools is annually added to the permanent fund itself and becomes an inseparable and inviolable part thereof, under the provisions of Section 5 of Article XI of the Constitution.

It will be noted that the total income is nearly one million six hundred thousand dollars. It is five thousand dollars more than during the previous fiscal year, and is the largest income ever received by this Department during any fiscal year in its history.

Nearly nine-tenths of the entire income belongs to the Public Schools, and amounts to \$1,376,101.84 as above shown. This represents an increase of approximately four hundred thousand dollars above the highest income ever reached during the boom period of the state prior to 1925.

The fees for grazing permits on timber lands are collected by the State Forester and by him paid over to the State Treasurer. The interest on bonds, warrants and bank deposits is paid directly to the State Treasurer; the other income is collected by this department.

TABLE No. II  
RECEIPTS FOR PERMANENT FUNDS FROM ALL SOURCES DURING FISCAL YEAR ENDING JUNE 30, 1929

Institutions and Funds to Which the Receipts Belong	Land Sales First Payments	Installments on Land Sales (C. P. 's)	Timber Sales by State Forester	Oil and Gas Royalties	Coal, Sand and Gravel Royalties Etc.	Total of These Initial Payments	Repayments on Mortgages	Repayments on Bonds	Repayments of Warrants	GRAND TOTALS
Public Schools	\$ 872.78	\$214,826.58	\$ 30,127.00	\$138,806.57	\$ 2,033.90	\$556,762.45	\$100,881.19	\$365,639.78	\$ 167,045.19	\$2,431,794.18
State University										
Agri. Col. — Morrill Grant	1,083.60	6,811.70	2,161.25			6,811.70		51,896.48		58,708.18
Agri. Col. — Second Grant		3,965.29	4,701.43			7,210.14		18,577.76		25,787.90
School of Mines	1,160.00	3,006.17	12,601.21			7,707.60		15,100.34		22,807.94
State Normal Schools	85.00	6,547.89	5,733.06			20,309.10		61,298.72		81,607.82
Deaf & Dumb Asylum		1,709.97	2,466.45			7,527.13		59,732.68		67,259.81
State Reform School		1,453.35	2,04.49			4,119.80		18,649.55		22,769.35
Capitol Buildings		9,230.73	17,756.70			9,435.22		18,586.20		28,021.42
Soldiers' Home		6,570.66				24,327.36				21,327.36
T. R. & O. H.	110.20	31.36				111.56		500.92		642.48
		12.20				12.20				12.20
TOTALS	\$173,407.20	\$254,165.00	\$ 75,951.59	\$138,806.57	\$ 2,033.90	\$614,364.26	\$100,881.19	\$609,982.43	\$ 167,045.19	\$2,763,738.64

\* 5% U. S. Land Sales. • † 5% 1928 Income.

It should be clearly understood that no part of the receipts for the permanent funds can be expended for the maintenance of the public schools or state institutions; these receipts are constantly being added to the funds themselves.

The grants for public buildings at the State Capitol differ from the other grants in this particular that both the income from the lands and the proceeds from their sale, are available for building purposes; no permanent fund is contemplated. But as to all the other land grants to our state, it is the purpose and intent of the Enabling Act that the proceeds from the sale of lands shall constitute permanent funds of which the income alone can be expended.

This purpose is fully carried out through the constitution and statutes of the state. Timber, oil, gas, and coal are considered as being part of the land itself and for this reason the proceeds from their sale are added to the permanent funds. The additions from these sources amount to the substantial sum of \$199,035.36 for the fiscal year; as already explained, 5% of this annual income for the public schools is added to the permanent fund, and this amounts to \$67,045.19 for the 1928 Calendar year; and under the Enabling Act, 5% of the net proceeds of public land sales within the state becomes part of the public school fund, but for each year this amounted to only \$572.78. The total of all these special additions to the permanent funds reaches the encouraging sum of \$266,653.33—more than one-quarter million dollars.

Payments on timber sales and payments on bonds and warrants are made directly to the State Treasurer; the other collections for the permanent funds are made through this department.

The total collections for the department during the fiscal year, both of income and receipts for the Permanent Funds, reach the huge total of \$1,352,655.35.

TABLE No. III  
INVESTMENTS MADE DURING FISCAL YEAR ENDING JUNE 30, 1929

FUNDS INVESTED	State Educational Bonds	County, City and Town Bonds	School District Bonds	State General Fund Warrants	TOTALS
Public Schools.....	\$	\$	\$	\$	\$
State University.....		403,500.00	863,430.02	1,254,957.53	2,521,887.55
Armenicultural College—Morrill Grant		41,851.60	19,000.00		60,851.60
Armenicultural College—Second Grant			25,069.84		25,069.84
School of Mines.....		10,000.00	15,739.11		25,739.11
State Normal Schools.....		25,000.00	61,831.64		86,831.64
Deaf and Dumb Asylum.....		10,000.00	40,500.00		65,500.00
State Reform School.....		10,000.00	14,700.00		24,700.00
Soldiers' Home.....		8,000.00	21,000.00		29,000.00
			850.00		850.00
Total Investments of Land Grant Permanent Funds.....		\$ 523,351.60	\$1,062,120.61	\$1,254,957.53	\$2,840,429.74
Public School Interest and Income Fund.....				1,044,035.30	1,044,035.39
Educational Bonds Interest and Sinking Fund.....	19,205.00			719,413.44	738,618.44
Public School Teachers' Retirement Fund.....				40,000.00	40,000.00
W. W. Dixon Endowment Fund.....				62,000.00	62,000.00
Senator Walsh Endowment Fund.....				5,000.00	5,000.00
Escheated Estates Fund.....				50,000.00	50,000.00
GRAND TOTAL OF ALL INVESTMENTS.....	\$ 19,205.00	\$ 523,351.60	\$1,062,120.61	\$3,175,406.36	\$4,780,083.57

The Investment Branch of this Department constitutes a kind of banking institution belonging to all the people of the state and managed in their interest. Nearly all the general obligation bonds issued by counties, cities, towns, and school districts throughout the state during last year were purchased by this department; no bond was too small to receive attention, and no bond was too large for the funds available. The active competition of this department for the purchase of these securities results in a reasonable rate of interest irrespective of the temporary condition of the bond market.

The investments made are now confined exclusively to bonds and warrants, and the main purpose is to secure revenue for the public schools and state institutions of learning; every dollar received from these investments takes the place of another dollar which otherwise must have been paid as taxes. In this way the interest returns to the people.

The State has devised for its borrowers the notable Amortization Bond—undoubtedly the best bond for the borrower known to modern finance. Under this bond the combined semi-annual installment on interest and principal remains the same from beginning to end, and when the last installment is paid, the bond is repaid in full. It saves the taxpayers of the State huge sums in interest every year and vastly increases the safety of the security.

Some of the funds invested by the State Board of Land Commissioners through this department do not belong to the Federal Land Grant Funds; see the foregoing schedule of "Funds Invested."

The total of all investments made in warrants and bonds during the fiscal year exceeds four and three-quarters million dollars, the exact amount being \$4,780,083.57, as above shown.

It is claimed without reservation that unless some terrible calamity should befall the state, not one single dollar of these investments will be lost.



TABLE No. IV  
PERMANENT ASSETS JUNE 30, 1929

Institutions and Funds to Which The Assets Belong	Value of Unsold Lands at \$10 Per Acre	Deferred Payments on Land Sales (C. P.'s)	SECURITIES					Cash With State Treasurer	TOTALS
			Farm Mortgage Loans	U. S. Securities and Federal Land Bank Bonds	State Bonds	County, City, Town and School District Bonds	State General Fund Warrants		
Public Schools .....	\$41,389,081.70	\$6,800,067.56	\$4,342,179.76	\$2,881,800.00	\$324,813.75	\$4,131,808.30	\$981,812.53	\$336,924.18	\$61,188,487.78
State University .....	167,817.60	81,058.74	.....	49,600.00	80,000.00	342,383.85	.....	3,228.93	721,089.12
Agri. Col. — .....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Morrill Grant .....	609,907.60	68,749.44	.....	.....	10,000.00	166,059.80	.....	2,548.74	857,265.58
Agri. Col. — .....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Second Grant .....	391,290.40	26,222.60	.....	25,000.00	308,000.00	173,634.78	.....	1,742.75	925,890.53
School of Mines .....	581,793.90	140,753.60	.....	25,000.00	115,000.00	446,271.48	.....	1,035.62	1,312,854.60
State Normal .....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Schools .....	690,956.50	42,209.92	.....	.....	50,000.00	534,147.83	.....	5,352.01	1,322,666.26
Deaf and Dumb .....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Asylum .....	363,272.60	34,592.52	.....	49,600.00	47,000.00	99,762.51	.....	1,835.54	596,063.20
State Reform .....	.....	.....	.....	.....	.....	.....	.....	.....	.....
School .....	365,192.50	28,411.13	.....	.....	5,400.00	183,010.46	.....	1,570.72	583,584.81
Capitol Buildings .....	1,241,008.60	120,103.72	.....	.....	.....	.....	.....	13,194.92	1,374,307.24
Soldiers' Home .....	9,978.70	3,245.52	.....	.....	.....	4,076.14	.....	363.62	17,663.98
TOTALS .....	\$45,810,300.10	\$7,345,414.75	\$4,312,179.76	\$3,031,000.00	\$940,213.75	\$6,081,155.18	\$981,812.53	\$370,797.03	\$68,902,873.10

\*This amount is slightly less than the amount actually with the State Treasurer on account of outstanding orders not presented for payment.

The State is responsible for the investment and perpetual preservation of these various permanent funds. Section 3 of Article XI of the Constitution provides that the public school fund "shall forever remain inviolate, guaranteed by the State against loss or diversion, to be invested, in so far as possible, in public securities within the state." Section 12 of the same article provides that "The funds of the state university and of all other state institutions of learning, from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated . . . and shall be guaranteed by the state against loss or diversion."

It is highly encouraging to note that in our state, these funds are not only being preserved but are rapidly increasing; one year ago the grand total of all the assets representing these funds was \$68,226,785.40; today it is \$68,902,873.10, an increase of more than \$676,000.00. This increase results partly from the special additions to the permanent funds, discussed under the heading "Receipts for Permanent Funds," and partly from the sale of lands at a higher price than \$10.00 per acre at which all unsold lands are carried among the assets.

The gradual shifting of the assets to high grade bonds is also a movement in the right direction. The amount of bonds on June 30th, 1929, was just about one million dollars more than on June 30th, 1928. High grade securities should unquestionably be the ultimate form of the Permanent Trust Funds of the Treasure State.



TABLE No. V  
INCOME FROM ALL SOURCES DURING FISCAL YEAR ENDING JUNE 30, 1930

Institutions and Funds to Which the Income Belongs	Rentals on Agricultural and Grazing Leases	Grazing Fees Collected by State Forester	Rentals on Oil and Gas Leases	Interest on Land Sales (C. P.'s)	Interest on Farm Mortgages	Interest on Bonds	Interest on Warrants	Interest on Bank Deposits	Fees and Penalties	TOTALS
State General Fund	\$368,693.82	\$ 4,922.46	\$ 91,099.13	\$197,112.37	\$172,155.48	\$418,810.63	\$ 44,232.93	\$ 21,212.84	\$ 21,589.26	\$ 21,589.26
Public Schools	1,693.40	143.00	.....	3,753.45	.....	24,959.59	.....	.....	.....	1,318,239.66
State University	6,730.14	.....	990.00	3,788.38	.....	9,178.65	.....	.....	.....	30,349.44
Agri. Col. — Morrill Grant	1,221.70	380.95	.....	1,150.67	.....	24,375.02	.....	.....	.....	20,687.17
Agri. Co. — Second Grant	3,917.75	206.80	.....	5,085.24	.....	29,707.68	.....	.....	.....	27,128.34
School of Mines	4,430.81	235.90	359.01	2,031.77	.....	30,616.11	.....	.....	.....	39,276.48
State Normal Schools	2,535.85	89.75	440.90	793.40	.....	9,827.72	.....	.....	.....	37,755.49
Deaf and Dumb Asylum	2,944.11	276.10	.....	954.44	.....	9,916.65	.....	.....	.....	13,246.72
State Reform School	3,359.81	509.28	390.00	5,569.31	.....	.....	.....	.....	.....	14,091.30
Capitol Buildings	124.75	.....	.....	156.77	.....	236.71	.....	.....	.....	12,219.40
Soldiers' Home	.....	.....	.....	48.14	.....	1,615.00	.....	.....	.....	518.23
O. H. & T. B. Society	.....	.....	.....	.....	.....	.....	.....	.....	.....	48.14
Mont. Trust & Legacy Fd.	.....	.....	.....	.....	.....	.....	.....	.....	.....	1,615.00
TOTALS	\$397,652.14	\$ 7,164.24	\$ 93,279.04	\$220,434.94	\$172,155.48	\$559,243.76	\$ 44,232.93	\$ 21,212.84	\$ 21,589.26	\$1,536,964.63

This represents all the income and nothing but actual income from the land grants and funds under the administration of this department received during the fiscal year ending June 30, 1930. The figures given show the exact amounts collected without regard to refunds. When lands under lease are sold, unearned rentals paid are refunded; there are also certain refunds on account of summer fallowing. The total of all rental funds during the fiscal year amounted to \$3,569.99, and there are various other kinds of refunds as shown in a subsequent statement. Every dollar of the net income is used for the maintenance of the public schools and the permanent fund institutions to which it belongs, with the exception that 5% of the total income for the public schools is annually added to the permanent fund itself and becomes an inseparable and inviolable part thereof under the provisions of Section 5 of Article XI of the Constitution.

It will be noted that the total income exceeds one and one-half million dollars.

Owing to the crop shortage of 1929 and 1930 the income for 1930 is nearly \$52,000.00 less than for the preceding year. Nearly eighty-six per cent of the entire income belongs to the public schools and amounts to \$1,318,239.66 as above shown; all fees and penalties go to the state general fund and amount to the substantial sum of \$21,589.26. The remainder of the income goes to various state institutions as shown in the table.

The fees for grazing permits on timber lands are collected by the State Forester and by him paid over to the State Treasurer. The interest on bonds, warrants and bank deposits is paid directly to the State Treasurer; the other income is collected by this department.

TABLE No. VI  
RECEIPTS FOR PERMANENT FUNDS FROM ALL SOURCES DURING FISCAL YEAR ENDING JUNE 30, 1930

Institutions and Funds to Which the Receipts Belong	Land Sales First Payments	Installments on Land Sales (C. P. S.)	Timber Sales by State Forester	Oil and Gas Royalties	Coal, Sand and Gravel Royalties Etc.	Total of These Initial Payments	Repayments on Mortgages	Repayments on Bonds *	Repayments of Warrants	GRAND TOTALS
Public Schools	{ \$5,210.92 842.39	.....	.....	.....	.....	.....	.....	\$1,000,000.00	\$71,348.68	
State University	40,452.40	\$202,634.07	\$ 17,586.73	\$150,471.53	1,810.23	\$419,208.27	\$54,626.96	374,692.49	1,565,959.55	\$3,485,835.95
Aeri. Col.	{ *450.00	5,150.95	307.24	.....	.....	5,458.19	.....	54,628.74	.....	60,086.93
Morrill Grant	{ 745.00	4,655.71	.....	.....	.....	5,850.71	.....	8,012.50	.....	13,863.21
Aeri. Col.	182.20	1,330.99	29,403.50	.....	.....	30,916.69	.....	15,999.70	.....	46,916.39
Second Grant	1,075.00	5,090.03	5,331.89	.....	.....	11,696.92	.....	48,679.43	.....	60,376.35
School of Mines	{ *278.00	.....	.....	.....	.....	.....	.....	.....	.....	.....
State Normal Schools	{ 906.44	1,826.15	1,670.46	.....	.....	4,781.05	.....	61,752.82	.....	66,533.87
Deaf & Dumb Asyl.	{ *375.00	801.17	88.35	.....	.....	1,264.52	.....	19,852.24	.....	21,116.76
State Reform School	{ *250.00	6,120.68	58.25	.....	.....	6,428.93	.....	23,882.88	.....	30,311.81
Capital Buildings	2,122.20	10,955.20	10,299.26	.....	.....	23,376.66	.....	.....	.....	23,376.66
Soldiers' Home	.....	44.83	.....	.....	.....	44.83	.....	531.43	.....	576.26
Mont. Tr. & Leg. Fl.	50.00	12.81	.....	.....	.....	62.81	.....	7,000.00	.....	7,000.00
O. H. & T. H. Soc.	.....	.....	.....	.....	.....	.....	.....	.....	.....	62.81
TOTALS	\$ 53,039.55	\$238,622.59	\$ 65,145.68	\$150,471.53	1,810.23	\$509,089.58	\$54,626.96	\$1,615,032.23	\$1,637,308.23	\$3,816,057.00

\* Rights of Way. † 5% U. S. Land Sales. ‡ Repayment on U. S. Bonds. § 5% of Total Income for Calendar Year 1929.

It should be clearly understood that no part of the receipts for the permanent funds can be expended for the maintenance of the public schools or state institutions; these receipts are constantly being added to the funds themselves.

The grants for public buildings at the State Capital differ from the other grants in this particular that both the income from the lands and the proceeds from their sale are available for building purposes; no permanent fund is contemplated. But as to all other land grants to our state, it is the purpose and intent of the Enabling Act that the proceeds from the sale of lands shall constitute permanent funds of which the income alone can be expended.

This purpose is fully carried out through the constitution and statutes of the state. Timber, oil, gas, and coal are considered as being part of the land itself and for this reason the proceeds from the sale and disposition thereof are added to the permanent funds. The additions from these sources amount to the substantial sum of \$207,128.18 for the fiscal year; as already explained, 5% of the annual income for the public schools is added to the permanent fund, and this amounts to \$71,348.68 for the 1929 calendar year; and under the Enabling Act, 5% of the net proceeds of public land sales within the state becomes part of the public school fund, but for last year this amounted to only \$842.39. The total of all these special additions to the permanent funds reaches the encouraging sum of \$279,319.25.

Payments on timber sales and payments on bonds and warrants are made directly to the State Treasurer; the other collections for the permanent funds are made through this department.

The total collections for the department during the fiscal year, both of income and receipts for the Permanent Funds, reach the respectable total of \$5,353,021.63.

TABLE No. VII  
INVESTMENTS MADE DURING FISCAL YEAR ENDING JUNE 30, 1930

FUNDS INVESTED	State Educ. Bonds	County, City and Town Bonds	School District Bonds	State General Fund Warrants	TOTALS
Public Schools.....	\$	\$ 206,500.00	\$ 451,635.64	\$2,208,846.28	\$2,866,981.92
State University.....	.....	.....	53,234.17	.....	53,234.17
Agricultural College—Morrill Grant	.....	.....	6,300.00	.....	6,300.00
Agricultural College—Second Grant	.....	.....	40,364.13	.....	40,364.13
School of Mines.....	.....	.....	51,500.00	.....	51,500.00
State Normal Schools.....	.....	.....	61,905.00	.....	61,905.00
Deaf and Dumb Asylum	.....	.....	11,833.69	.....	11,833.69
State Reform School.....	.....	.....	28,100.00	.....	28,100.00
Capitol Buildings.....	.....	.....	.....	.....	.....
Veterans' Memorial.....	.....	.....	21,601.89	.....	21,601.89
Montana Trust and Legacy Fund	.....	61,000.00	24,000.00	.....	85,000.00
Soldiers' Home.....	.....	.....	800.00	.....	800.00
Public School Interest and Income	.....	.....	.....	318,748.19	318,748.19
Educational Bonds Interest and Sinking	5,056.74	.....	.....	1,220,892.89	1,225,949.63
TOTALS.....	\$ 5,056.74	\$ 267,500.00	\$ 751,274.52	\$3,748,487.36	\$4,772,318.62

The business of this department is gradually shifting from that of a landlord to that of an investment banker. It has been the policy of the department for a long series of years to sell lands as fast as this could be accomplished without sacrifice of values. When the lands have passed into private ownership they will be farmed and developed to the best advantage and aid in a fuller measure in the development of the community in which they are located; the proceeds from the sale also bring a better income to the state than the lands themselves and are more easily administered. The ultimate nature and function of this department will be that of a big, strong loan institution investing its funds mainly in public securities.

It is believed that the investment business of this department is especially helpful to the people of the state. With few exceptions all the general obligation bonds issued by counties, cities, towns and school districts throughout the state during last year were purchased by this department; no bond was too small to receive attention, and very few issues were too large for the funds available. The active competition of this department for the purchase of these securities results in a reasonable rate of interest irrespective of the temporary condition of the bond market.

The state has devised for its borrowers the best bond known to modern finance—the notable amortization bond. Under the amortization plan part of the principal is repaid with each interest payment; the part paid on the principal added to the interest payment remains constant throughout the full term for which the bond is issued; and when the last installment is paid, the bond is repaid in full. The amortization plan saves the taxpayers of the state huge sums in interest and vastly increases the safety of the investment.

Every dollar in interest collected from all these investments accrues to the benefit of the public schools and various state institutions; it returns to the borrowers and takes the place of another dollar which otherwise would have to be raised as taxes.

Some of the funds invested by the State Board of Land Commissioners through this department do not belong to the Federal Land Grant Funds; see the foregoing schedule of "Funds Invested."

The investments made during the last year were confined exclusively to bonds and warrants, and amounted in all to \$4,772,318.62 as above shown. I firmly believe that unless some terrible calamity should befall the state, not one single dollar of these millions will be lost.

TABLE No. VIII  
PERMANENT ASSETS JUNE 30, 1930

Institutions and Funds to Which the Assets Belong	Value of Unsold Lands at \$10 Per Acre	Deferred Payments on Land Sales (C. P. s)	SECURITIES					TOTALS
			Farm Mortgage Loans	U. S. Securities and Federal Land Bank Bonds	State Bonds	County, City, Town and School District Bonds	State General Fund Warrants	
Public Schools	\$41,323.90	\$6,733.90	\$4,301.56	\$1,881.80	\$317.64	\$4,422.46	\$1,624.69	\$61,547.75
State University	173,698.30	69,834.69		49,600.00	80,000.00	340,989.28		724,203.96
Agri. Col.								
Morrill Grant	608,958.20	66,889.08			10,000.00	164,347.30		860,306.53
Agri. Col.								
Second Grant	389,683.20	26,316.61		25,000.00	308,000.00	197,999.21		955,294.03
School of Mines	576,193.90	142,634.68		25,000.00	115,000.00	449,092.05		1,320,852.60
State Norm. Schools	684,327.70	47,093.77			50,000.00	534,600.01		1,326,337.36
Deaf & Dumb Asy.	389,672.60	20,637.60		49,600.00	39,000.00	99,743.99		589,792.80
State Reform School	371,592.50	14,662.41			5,400.00	187,227.58		582,665.02
Capitol Buildings	1,241,073.30	115,487.68						1,361,184.46
Soldiers' Home	9,978.70	3,200.69				4,344.71		17,663.98
O. H. & T. B. Soc.	650.00	1,399.99						2,148.74
Mont. Tr. & Leg. Fd.						78,000.00		79,381.28
TOTALS	\$45,749,730.20	\$7,242,104.89	\$4,301,561.94	\$2,031,000.00	\$925,047.50	\$6,478,811.88	\$1,624,699.26	\$69,367,185.55

(The Cash Balances in the Public School, School of Mines and the State Normal School Funds, as above shown, are less than the amounts reported by the State Treasurer on account of Outstanding Orders not presented to the State Treasurer, for payment.)

The State is responsible for the investment and perpetual preservation of these various permanent funds. Section 3 of Article XI of the Constitution provides that the public school fund "shall forever remain inviolate, guaranteed by the State against loss or diversion, to be invested, in so far as possible, in public securities within the state. . . . Section 12 of the same article provides that "The funds of the state university and of all other state institutions of learning; from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated. . . . and shall be guaranteed by the State against loss or diversion.

It is encouraging to note that in our State, these funds are not only being preserved but are rapidly increasing; one year ago the grand total of all the assets representing these funds was \$68,902,873.10; today it is \$69,287,804.27, not including the Montana Trust and Legacy Fund, an increase of more than \$384,000.00. This increase results partly from the special additions to the permanent funds discussed under the heading "Receipts for Permanent Funds," and partly from the sale of lands at a higher price than \$10.00 per acre, the figure at which all unsold lands are carried among the assets.



**TABLE No. IX**  
**COMPARISON BETWEEN THE INCOMES FOR THE LAST TWO**  
**FISCAL YEARS**

(a) Comparison as to Total Income for Each Fund or Institution.

Institutions and Funds to Which the Income Belongs	Fiscal Year July 1, 1928 to June 30, 1929	Fiscal Year July 1, 1929 to June 30, 1930	Increase for Last Fiscal Year	Decrease for Last Fiscal Year
State General Fund .....	\$ 10,450.89	\$ 21,589.26	\$ 11,138.37	\$ .....
Public Schools .....	1,376,101.84	1,318,239.66	.....	57,862.18
State University .....	30,569.73	30,549.44	.....	20.29
Agri. Col.—Morrill Grant .....	20,932.38	20,687.17	.....	245.21
Agri. Col.—Second Grant .....	28,868.90	27,128.34	.....	1,740.56
School of Mines .....	38,465.54	39,276.48	810.94	.....
State Normal Schools .....	39,498.23	37,755.49	.....	1,742.74
Deaf and Dumb Asylum .....	14,578.31	13,246.72	.....	1,331.59
State Reform School .....	15,454.21	14,091.30	.....	1,362.91
Capitol Buildings .....	13,549.15	12,291.40	.....	1,329.75
Soldiers' Home .....	398.78	518.23	119.45	.....
Orphans' Home & T. B. Society .....	48.75	48.14	.....	.61
Montana Trust & Legacy Fund .....	.....	1,615.00	1,615.00	.....
<b>TOTALS.....</b>	<b>\$1,588,916.71</b>	<b>\$1,536,964.63</b>	<b>\$ 13,683.76</b>	<b>\$ 65,635.84</b>
<b>NET DECREASE .....</b>				<b>\$ 51,952.08</b>

(b) Comparison as to Class or Source.

Fees and Penalties .....	\$ 10,450.89	\$ 21,589.26	\$ 11,138.37	\$ .....
Refund of Apportionment .....	46.23	.....	.....	46.23
Rentals on Agricultural and Grazing Leases .....	423,087.71	397,652.14	.....	25,435.57
Grazing Fees Collected by State Forester .....	6,344.87	7,164.24	819.37	.....
Rentals on Oil and Gas Leases....	56,147.89	93,279.04	37,131.15	.....
Interest on Land Sales (Certificates of Purchase) .....	303,780.46	220,434.94	.....	83,345.52
Interest on Farm Mortgages .....	244,809.59	172,155.48	.....	72,654.11
Interest on Bonds .....	467,181.11	559,243.76	92,062.65	.....
Interest on Warrants .....	58,060.11	44,232.93	.....	13,827.18
Interest on Bank Deposits .....	19,007.85	21,212.84	2,204.99	.....
<b>TOTALS.....</b>	<b>\$1,588,916.71</b>	<b>\$1,536,964.63</b>	<b>\$ 143,356.53</b>	<b>\$ 195,308.61</b>
<b>NET DECREASE .....</b>				<b>\$ 51,952.08</b>

It will be noted that with few exceptions there is a general decline in the total income for each fund or institution resulting in a total net decrease of nearly \$52,000.00. Table (b) comparing the incomes as to class or source is the most helpful as it indicates the cause of the changes.

There is a special reason for the increase in fees and penalties of more than \$11,000.00. Chapter 108 of the 1927 Session Laws which governs the issuance of State oil and gas leases and operations thereunder, went into effect April 15, 1927. Section 6 of this chapter provides for a penalty of \$1.00 per acre for the failure to perform certain minimum drilling requirements during the first two years of the lease. These penalties came into full operation about the beginning of the last fiscal year and the amount collected exceeded \$14,000.00. It will thus be seen that there was an actual decrease in fees collected in place of an increase.

The increase in rentals on oil and gas leases of more than \$37,000.00 is simply due to increased activities in the exploration for oil and gas on State lands. The increase in interest on bonds of more than \$92,000.00 is mainly due to premiums collected on \$1,000,000.00 in United States bonds which were sold during the last fiscal year.



It will be noted that there is a decrease of more than \$25,000.00 in rentals on agricultural and grazing lands; a decrease of more than \$83,000.00 in interest on land sales, and a decrease of more than \$72,000.00 on farm mortgages. The decrease in rentals on leases is very largely due to the large land sales conducted in the fall of 1928. As the lands were sold and placed under purchase contract the leases would of course have to be cancelled and the rentals decreased accordingly during the ensuing year.

The heavy decrease in interest on land sales and interest on mortgages is the direct effect of the small grain crops harvested in 1929 and declining prices. They are the deep shadows of the agricultural depression.

TABLE No. X

### COMPARISON BETWEEN THE RECEIPTS FOR PERMANENT FUNDS DURING THE LAST TWO FISCAL YEARS

(a) Comparison as to Total Receipts for Each Fund or Institution.

Institutions and Funds to Which the Receipts Belong	Fiscal Year July 1, 1928 to June 30, 1929	Fiscal Year July 1, 1929 to June 30, 1930	Increase for Last Fiscal Year	Decrease for Last Fiscal Year
Public Schools .....	\$2,431,794.18	\$3,485,835.95	\$1,054,041.77	\$ .....
State University .....	58,708.18	60,086.93	1,378.75	.....
Agri. Col.—Morrill Grant .....	25,787.90	13,863.21	.....	11,924.69
Agri. Col.—Second Grant .....	22,807.94	46,916.39	24,108.45	.....
School of Mines .....	81,607.82	60,376.35	.....	21,231.47
State Normal Schools .....	67,259.81	66,533.87	.....	725.94
Deaf and Dumb Asylum .....	22,769.35	21,116.76	.....	1,652.59
State Reform School .....	28,021.42	30,311.81	2,290.39	.....
Capitol Buildings .....	20,327.36	23,376.66	3,049.30	.....
Soldiers' Home .....	642.48	576.26	.....	66.22
Montana Trust and Legacy .....	.....	7,000.00	7,000.00	.....
Orphans' Home & T. B. Society ..	12.20	62.81	50.61	.....
<b>TOTALS</b> .....	<b>\$2,759,738.64</b>	<b>\$3,816,057.00</b>	<b>\$1,091,919.27</b>	<b>\$ 35,600.91</b>

NET INCREASE ..... \$1,056,318.36

(b) Comparison as to Class or Source.

Land Sales—First Payments....	\$ 172,834.42	\$ 45,533.24	\$ .....	\$ 120,637.26
Rights of Way.....	.....	6,663.92	.....	.....
5% U. S. Land Sales .....	572.78	842.39	269.61	.....
Repayment on U. S. Bonds .....	.....	1,000,000.00	1,000,000.00	.....
5% of Total Income .....	67,045.19	71,348.68	4,303.49	.....
Installments on Land Sales (Certificates of Purchase) .....	254,165.00	238,622.59	.....	15,542.41
Timber Sales by State Forester ..	71,951.59	65,145.68	.....	6,805.91
Oil and Gas Royalties .....	138,806.57	150,471.53	11,664.96	.....
Coal, Sand and Gravel Royalties ..	2,033.90	1,810.23	.....	223.67
Repayments on Mortgages .....	100,881.19	54,626.96	.....	46,254.23
Repayments on Bonds .....	609,982.43	615,032.23	5,049.80	.....
Repayments on Warrants .....	1,341,465.57	1,565,959.55	224,493.98	.....
<b>TOTALS</b> .....	<b>\$2,759,738.64</b>	<b>\$3,816,057.00</b>	<b>\$1,245,781.84</b>	<b>\$ 189,463.48</b>

NET INCREASE ..... \$1,056,318.36

The heavy increase in the receipts for the Public Schools Permanent Fund is mainly accounted for by the sale of United States bonds during the year in the sum of \$1,000,000.00. The strong fluctuations in the receipts for the two Agricultural College grants and for the School of Mines are due to changes in repayments on investments and differences in the amounts of timber cut during the two years on lands belonging

to these two institutions. These accidental changes can be ascertained in detail by comparing Table II and Table VI of this report.

Table (b) "Comparison as to Class or Source," is largely self-explanatory. Owing to the agricultural depression beginning in the fall of 1929, first payments on land sales during that year were more than \$120,000.00 below such payments for the previous year. The decrease of more than \$15,000.00 in the sum collected as installments on land sales, and the decrease of more than \$46,000.00 in repayments on mortgages, are the most significant and are, of course, due to the same cause as the decrease in land sales, collections of interest on land sales, and interest on mortgages.

**TABLE No. XI**  
**COMPARISON BETWEEN PERMANENT ASSETS AS OF**  
**JUNE 30, 1929, AND JUNE 30, 1930**

(a) Comparison as to the Total Assets for Each Fund or Institution.

	June 30, 1929	June 30, 1930	Increase for Last Fiscal Year	Decrease for Last Fiscal Year
Public Schools .....	\$61,188,487.78	\$61,547,754.79	\$ 359,267.01	\$.....
State University .....	724,089.12	724,203.96	114.84	.....
Agri. Col.—Morrill Grant .....	857,265.58	860,306.53	3,040.95	.....
Agri. Col.—Second Grant .....	925,890.53	955,294.03	29,403.50	.....
School of Mines .....	1,312,854.60	1,320,852.60	7,998.00	.....
State Normal Schools .....	1,322,666.26	1,325,937.36	3,271.10	.....
Deaf and Dumb Asylum .....	596,063.20	589,792.80	.....	6,270.40
State Reform School .....	583,584.81	582,665.02	.....	919.79
Capitol Buildings .....	1,374,307.24	1,361,184.46	.....	13,122.78
Soldiers' Home .....	17,663.98	17,663.98	.....	.....
Orphans' H. & T. B. Society .....	.....	2,148.74	2,148.74	.....
Montana Trust and Legacy .....	.....	79,381.28	79,381.28	.....
<b>TOTALS.....</b>	<b>\$68,902,873.10</b>	<b>\$69,367,185.55</b>	<b>\$ 484,625.42</b>	<b>\$ 20,312.97</b>
<b>NET INCREASE .....</b>	<b>.....</b>	<b>.....</b>	<b>.....</b>	<b>\$ 464,312.45</b>

(b) Comparison as to Kind of Assets.

Value of Unsold Lands at \$10.00 Per Acre .....	\$45,810,300.10	\$45,749,730.20	\$.....	\$ 60,569.90
Deferred Payments on Land Sales (C. P.'s) .....	7,345,414.75	7,242,104.89	.....	103,309.86
Farm Mortgage Loans .....	4,342,179.76	4,301,561.94	.....	40,617.82
United States Bonds .....	3,031,000.00	2,031,000.00	.....	1,000,000.00
State Bonds .....	940,213.75	925,047.50	.....	15,166.25
County, City, Town and School District Bonds .....	6,081,155.18	6,478,811.88	397,656.70	.....
State General Fund Warrants..	981,812.53	1,624,699.26	642,886.73	.....
Cash with State Treasurer .....	370,797.03	1,014,229.88	643,432.85	.....
<b>TOTALS.....</b>	<b>\$68,902,873.10</b>	<b>\$69,367,185.55</b>	<b>\$1,683,976.28</b>	<b>\$1,219,663.83</b>
<b>NET INCREASE .....</b>	<b>.....</b>	<b>.....</b>	<b>.....</b>	<b>\$ 464,312.45</b>

### GENERAL GROWTH IN ASSETS

It will be noted from the foregoing tables that the assets as a whole have increased more than \$484,000.00. Unsold lands belonging to the various grants are carried at the minimum sales price of \$10.00 per acre; when lands are sold at a higher price this will result in an increase of

the assets of the institution to which the lands belong. Timber and royalties on coal, oil and gas are regarded as parts of the land itself and when timber is sold or coal, oil or gas royalties collected, these are added to the proper funds and result in increasing the assets as carried on our records. Turning to Table XI, sub-heading (a) and leaving out for the present the big increase in the Public School Fund, the changes are explained as follows:

The increase in the funds of the Agricultural College, the School of Mines and the State Normal Schools is due to land sales and timber sales. The decrease in the assets of the Deaf and Dumb Asylum and the State Reform School is accounted for by the cancellation of sales contracts. Sales contracts, or certificates of purchase, are carried among the assets at the amount of the unpaid portion of the purchase price. When certificates are cancelled on account of delinquency, this form of asset is charged off entirely and the lands are then entered at the minimum sales price of \$10.00 per acre. Certificates of Purchase No. 01327, 01328 and 01329 embracing lands belonging to the Deaf and Dumb Asylum were cancelled on August 15, 1929, which fully accounts for the decrease in the assets of that institution. The decrease in the assets of the State Reform School was also caused through the cancellation of Certificates of Purchase (No. 01871-A, 01964 and 01965).

The fund for Capital Buildings is not a permanent fund; both the actual income and the receipts from the sale of lands are available for use; hence the assets of this grant are constantly decreasing.

The Montana Trust and Legacy Fund is a new fund originating within the last fiscal year.

## PUBLIC SCHOOL PERMANENT FUND

### SOURCES OF INCREASE

There is a more rapid growth in the Public School Permanent Fund than in any of the other funds, the total increase for the last fiscal year being more than \$359,000.00 as shown under sub-heading (a) of Table XI. The proceeds of land and timber sales, coal, oil and gas royalties are added to this fund, the same way as in the case of the other permanent funds, and it so happens that so far all oil discovered on State lands has been on lands belonging to the public schools. But in addition to these sources of increase, 5% of the total annual income is added to the fund itself under the provisions of an amendment to Section 5 of Article XI of the State Constitution, of which the present Commissioner of State Lands is the author. This amendment was passed by the State Legislature in 1919, approved by the vote of the people at the election in November, 1920, and became effective as part of the Constitution under the Governor's proclamation of December 6, 1920. The additions made to the permanent fund under this amendment are as follows:

March 1921 .....	\$ 7,442.22
March 1922 .....	41,253.83
March 1923 .....	49,314.52
March 1924 .....	46,967.18
March 1925 .....	43,063.93
March 1926 .....	53,275.11
Feb. 1927 .....	68,259.05
Feb. 1928 .....	61,695.53
April 1929 .....	67,045.19
March 1930 .....	71,348.68

Total.....	<u>\$509,665.24</u>
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As this addition is a certain percentage of the total income per year, the annual addition will increase as the income itself increases. It will thus be seen that it is an important source in the perpetual growth of the Public School Permanent Fund.

The total increase in this fund during the last fiscal year is accounted for as follows:

Timber Sales .....	\$ 17,786.73
Oil and Gas Royalties .....	150,471.53
Coal, Sand and Gravel Royalties .....	1,810.23
5% of Income during 1929 Calendar Year.....	71,348.68
5% of the Net Proceeds of the U. S. Land Sales in Montana (See Sec. 13 of the En- abling Act) .....	842.39
Proceeds of Rights of Way and Gains on Land Sales above \$10.00 per acre, etc. ....	117,007.45
Total.....	<u>\$359,267.01</u>

The continuous addition of these large receipts to the fund itself augurs well for the perpetual growth of the Public School Permanent Fund. It is one of the most encouraging elements in the public finance of the State of Montana.

## OBSERVATIONS ON THE VARIOUS CLASSES OF THE PERMANENT ASSETS

(Total June 30th, 1930, \$69,367,185.55. See Table VIII, Page 15)

### 1. Unsold Lands

(\$45,749,730.20)

It will be noted that this class of assets figured at the minimum sales price of \$10.00 per acre aggregates nearly forty-five and three-quarter million dollars, or approximately 66% of the total assets. The question arises if these lands are worth an average price of \$10.00 per acre. Undoubtedly there are some of the lands located in the mountainous regions and some of the inferior grazing lands that may never bring this price; but it is quite probable that this will be more than offset by the price realized from the more valuable lands, and by the proceeds of timber sales and the royalties on coal, oil, gas and other minerals. Considering these factors, it is reasonable to assume that ultimately the State will realize even more than an average of \$10.00 per acre for all the lands now unsold. The average sales price for all lands sold up to June 30, 1930 is about \$15.51 per acre.

For detailed information in regard to the distribution of these lands among the various grants and throughout the 56 counties of the State, see Table XII, Pages 24-25.

### 2. Deferred Payments on Land Sales

(Certificates of Purchase)

(\$7,242,104.89)

This class of assets is carried at the exact amount from time to time unpaid on the sales contracts, or certificates of purchase as they are usually called, not considering accrued interest. Our State lands have at all times been sold on some kind of a deferred payment plan, except in the few cases where the purchaser has made full payment at the time of sale. Under present statutes, the purchaser is only required to pay about 10% at the time of sale. The balance of the purchase price draws interest at the rate of 5% per annum and is payable on the amortization plan through a period of 33 years. The deferred payment plan results in a far greater number of sales, but it also results in default in payments in a great number of cases and resulting cancellation of the contracts. However, the present amortization plan of payment is very helpful to the purchaser and considered in all its bearings it is not far from ideal.

On Page 17 of the report of this department for the two-year period ending June 30th, 1926, attention is called to the fact that 1281 certificates of purchase had been cancelled during that two-year period on account of hopeless delinquency in payments; on Page 26 of the 1928 report, it is shown that 493 additional certificates had been cancelled.

On August 24th, 1929 (Page 703 of proceedings), the State Board of Land Commissioners approved the final cancellation of 98 certificates



embracing 18,827.69 acres, on which there was an unpaid balance of principal in the sum of \$206,134.20. The following is a summary of the 98 certificates cancelled at that time:

Grant to which the Lands Belong	Acreage Under the Cancelled Certificates	Balance of Principal Unpaid
Public School .....	16,090.77	\$169,171.02
State University .....	588.07	6,073.10
Deaf and Dumb Asylum .....	640.00	13,133.75
Capitol Buildings .....	563.79	6,548.64
Agricul. Coll. Morrill Grant .....	305.06	3,579.65
State Reform School .....	640.00	7,628.04
Totals .....	18,827.69	\$206,134.20

Additional cancellations will undoubtedly become necessary, the extent of such cancellations depending upon the agricultural conditions throughout the State. The cancellation of sales contracts is not a total loss to the State; some payments have always been made on the land, in many cases quite substantial, and these are never refunded. In addition, the State has the lands themselves, which can be sold again as soon as demand arises.

### 3. Farm Mortgage Loans

This class of assets is carefully analyzed in Table XIII and discussed in detail in notes following the table.

### 4. Bonds, State Warrants, and Cash on Hand

U. S. Securities .....	\$ 2,031,000.00
State Bonds .....	925,047.50
County, City, Town and School Dist. Bonds .....	6,478,811.88
State Warrants .....	1,624,699.26
Cash with State Treasurer.....	1,014,229.88
Total.....	\$12,073,788.52

All of these securities are splendid assets. Very few bonds are delinquent, and those are small ones and are being taken up by amortization refunding bonds. All the bonds now being purchased by this department and issued within the State of Montana are payable on the amortization plan or on the serial plan, and this circumstance vastly improves the safety of the investment as the bonds are repaid in semi-annual installments throughout the term for which they were issued. High grade securities should be the ultimate form of all the assets of this department.

The amount of cash in the hands of the State Treasurer on June 30th may seem excessively large, but it should be remembered that at that time of the year bonds aggregating hundreds of thousands of dollars had been purchased but not presented for payment.



TABLE No. XII  
LANDS UNSOLD IN EACH GRANT JUNE 30, 1930

COUNTY	Public School		State University		Agri. Morrill Grant (90,000 Acres) <sup>1</sup>		Agri. College Grant (50,000 Acres)		School of Mines		State Normal School		Deaf and Dumb Asylum		State Reform School		Public Buildings		TOTALS	
	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres
1. Beaverhead	175,430.38				10,360.31				7,169.08		16,825.39		6,240.00		5,960.00		10,853.05		232,838.21	
2. Big Horn	87,146.72																		87,146.72	
3. Blaine	162,111.36				785.06				1,000.49		1,031.47				40.00				164,968.38	
4. Broadwater	18,557.84	320.00															9,292.92		28,170.76	
5. Carbon	36,813.86				3,573.57										3,248.81				43,635.74	
6. Carter	138,909.84								228.37		27.75				141.06		440.00		139,747.02	
7. Cascade	66,982.74	214.29			760.00				4,600.53		482.36				2,113.42		400.00		75,553.34	
8. Chouteau	206,826.41				9,820.62				13,300.84		10,652.21				895.59		2,165.92		243,661.59	
9. Custer	124,850.43	480.00																	125,330.43	
10. Daniels	119,495.73																		119,495.73	
11. Dawson	71,077.89																480.00		71,557.89	
12. Deer Lodge	8,404.27																		8,404.27	
13. Fallon	51,709.84																		51,709.84	
14. Fergus	136,449.14	1,760.00																	138,209.14	
15. Flathead	72,765.69				3,428.05				9,663.32		9,733.90		5,381.67		2,577.31		20,237.68		136,885.15	
16. Gallatin	26,593.94	1,433.24							2,748.93		1,540.12		2,574.86		642.32		6,264.00		42,292.88	
17. Garfield	160,533.05																		160,533.05	
18. Glacier	14,119.66																225.93		14,345.59	
19. Golden Valley	42,851.84	3,639.68																	46,491.52	
20. Granite	19,235.48																		19,235.48	
21. Hill	118,417.08																		119,015.05	
22. Jefferson	24,409.86	360.00			2,870.94						557.97		2,520.00		40.00				30,919.48	
23. Judith Basin	66,959.31				720.00				2,109.13						758.68				69,788.44	
24. Lake	64,578.33	320.84						320.00	1,220.20		1,000.07		1,078.09				157.35		68,674.68	
25. Lewis and Clark	94,480.24	320.00			7,217.81			880.00	3,640.00		1,366.01		2,280.00		1,000.00		8,403.76		119,597.82	
26. Liberty	93,408.12																143.00		93,551.12	
27. Lincoln	48,814.53								480.00								11,157.32		60,451.85	
28. McCone	89,145.70																		89,145.70	
29. Madison	80,960.44	640.00			960.00				4,071.04		15,983.07		3,191.65		4,169.90		9,948.09		132,742.67	
30. Meagher	56,514.65				14,562.53								7,892.95		7,709.32				86,679.85	

31. Mineral	6,706.52	1,760.00	2,137.15	2,460.12	4,141.41	5,093.55	8,077.65	21,385.70
32. Missoula	35,539.71			6,025.78	315.49		10,794.50	61,656.18
33. Musselshell	59,466.58							59,466.58
34. Park	35,485.16	880.00						36,365.16
35. Petroleum	59,883.01	1,272.37	840.00					61,155.38
36. Phillips	173,626.78							174,466.78
37. Pondera	49,316.84						80.00	49,396.84
38. Powder River	135,893.99					160.00		137,069.09
39. Powell	55,959.19	155.67	480.00				480.00	56,914.86
40. Prairie	58,247.44							58,247.44
41. Ravalli	16,695.31						5,199.64	26,315.52
42. Richland	67,789.47		1,183.49					67,789.47
43. Rosebud	14,268.20						760.00	15,028.20
44. Rosbehud	165,330.51	2,213.74				2,130.90		167,544.25
45. Sanders	37,784.61						12,811.15	52,726.66
46. Sheridan	24,030.55							24,030.55
47. Silver Bow	12,034.59							12,034.59
48. Stillwater	39,181.09							39,181.09
49. Sweet Grass	48,971.98							50,251.98
50. Teton	81,592.28		1,280.00	4,147.46	2,923.37	240.00	200.00	91,729.94
51. Toole	106,901.24		2,626.83				5,535.37	112,476.61
52. Treasure	33,693.95	480.00						34,173.95
53. Valley	178,652.03							178,652.03
54. Wheatland	54,652.27	1,120.00			1,120.00	3,677.14	2,369.29	62,988.70
55. Wibaux	27,848.74							27,848.74
56. Yellowstone	74,224.97							74,224.97
TOTALS	4,132,390.18	17,369.83	60,895.82	38,968.32	57,619.39	36,967.26	124,107.33	4,573,910.15

## MISCELLANEOUS STATE LANDS UNSOLD NOT INCLUDED IN TABLE

Soldiers' Home Grant	997.87							
Northern Montana Normal and Manual Training School	2,000.00							
"Militia Camp" now used as Agricultural Experiment Station, part of former Fort Ellis Military Reservation	640.00							
Miscellaneous parcels, belonging to the State	267.68							
Orphans' Home and Tuberculosis Sanitarium	65.00							
GRAND TOTAL	3,970.55							3,970.55
								4,577,880.70

Unsold Acreage June 30, 1928..... 4,696,227.64 Acres  
 Decrease ..... 118,346.94 "

**TABLE No. XIII**  
**CONDITION OF STATE FARM LOANS JUNE 30, 1930**

Classification of Loans as to Present Condition	No. of Loans	Acres	Unpaid Principal
Loans in Their Original Form Not Delinquent One Year or More	127	43,484.67	\$ 217,685.84
Loans in Their Original Form Delinquent One Year or More	297	56,387.03	297,063.91
Loans Converted to Amortization Mortgages Not Delinquent One Year	184	60,658.41	366,798.26
Loans Converted to Amortization Mortgages Delinquent One Year or More	44	18,393.48	103,950.45
Sales Contracts: (Mortgages under which the land has been deeded to the State or acquired by foreclosure and then resold under the 33 year amortization plan)	904	320,361.69	2,105,381.81
Mortgages under which the State has acquired title to the land through Quit Claim Deed and the lands have Not been resold	343	136,417.02	840,255.44
Mortgages under which the State has acquired title to the land through Foreclosure proceedings and the lands have Not been resold	108	50,124.37	370,426.23
<b>TOTALS</b>	<b>2,007</b>	<b>685,826.67</b>	<b>\$4,301,561.94</b>

**Taxes and Costs Paid by the State in Connection With Its Mortgage Loans**

Up to June 30, 1922	\$ 45,297.66
Year ending June 30, 1923	75,630.72
Year ending June 30, 1924	169,566.59
Year ending June 30, 1925	137,633.90
Year ending June 30, 1926	45,777.63
From June 30, 1926, to June 30, 1928	49,177.17
Year ending June 30, 1929	9,166.18
Year ending June 30, 1930	14,009.14
<b>TOTAL</b>	<b>\$ 546,258.99</b>

All taxes paid are included in "Unpaid Principal" as above given.

**Total Investment in Farm Loans at the Close of Each Fiscal Year**

June 30, 1924	\$4,551,655.03
June 30, 1925	4,595,261.19
June 30, 1926	4,549,039.77
June 30, 1927	4,529,084.23
June 30, 1928	4,433,894.77
June 30, 1929	4,342,179.76
June 30, 1930	4,301,561.94

**Loans Repaid in Full**

The foregoing classification has been worked out with painstaking care and throws a great deal of light on the present condition of the State's farm loans. 381 loans embracing 117,335.86 acres and amounting to \$672,130.00 have been repaid in full from the beginning of the State mortgage loan business to June 30, 1930.

**OBSERVATIONS ON THE CONDITION OF  
STATE FARM LOANS**

The figures given under the heading, "Unpaid Principal," show the balances as of June 30, 1930, of investments from the Public School Permanent Fund in each classification including all amounts paid as taxes and various costs; delinquent interest is not included in the figures given. We have not figured the amount of this delinquent interest in detail, but based on careful estimates the amount is close to \$975,000.00.

When lands are resold, all delinquent interest, taxes and costs paid by the State are included in the sales price, and as a result the sum



total of "Sales Contracts" is considerably above the amount of the actual investment in principal. In the foregoing table this class of loans is carried at \$2,105,381.81. By actual addition of the 904 loans in this class we find that the total amount including interest converted into principal is \$2,457,163.97, or more than \$350,000.00 above the actual investment in principal.

Up to and including the fiscal year ending June 30, 1925, the amount invested in farm loans continued to increase. Since that time not a single farm loan has been made, and every reasonable effort has been made to reduce the amount invested, but the reduction has been very slow as will be shown by the foregoing table.

It is a rather sad commentary on the State's farm loan business that of all the twenty-four or twenty-five hundred loans originally made, there are at this time only 127 remaining in their original form and not delinquent one year or more. Attention is also called to the large amounts that the State has been compelled to pay as taxes to protect its title to the lands given as security. The basic difficulty is that the loans were made during the boom period of the State when real estate prices were far above actual values, and as a result the majority of the loans were entirely too high. Another cause of the trouble is that they were not made on the amortization plan or some other gradual repayment plan. The following classes of loans in the foregoing table may be regarded as being in a fairly promising condition:

	No. of Loans	Principal
Original Loans not Delinquent 1 Year ....	127	\$ 217,685.84
Amortization Mortgages not Delinquent		
1 Year .....	184	366,798.26
Sales Contracts .....	904	2,105,381.81
Total.....	1,215	\$2,689,865.91

This constitutes a little over 62% of all the loans now outstanding, but if the present agricultural depression should continue for any length of time a great number of the sales contracts would become so far delinquent that they would have to be cancelled, and the lands would revert to the full ownership and possession of the State.

It must be admitted that these investments do not constitute a satisfactory investment for the Public School Funds of the State. The great amount of delinquent interest above referred to is one serious objection. During the fiscal year ending June 30, 1928, the interest collections were highly satisfactory, amounting to \$244,809.59; during the last fiscal year they dropped to \$172,155.48; and it is likely that they will drop even lower. Investments from the Public School Funds should be such that the interest is regularly paid, and the principal itself is secure.

Under the provisions of Section 3 of Article XI of the State Constitution, the Public School Fund is guaranteed by the State itself against "loss or diversion." It would seem that some feasible plan should be worked out under which this guarantee of the State would be brought

into operation. In the report for 1928 a proposed legislative measure having this for its object was recommended, and with some minor changes this recommendation is renewed in the present report under the heading "Settlement with the Public School Permanent Fund for Money Invested in Farm Loans."

### General Plan of Handling Delinquent Loans

Under the provisions of the 1925 Session Laws as amended by Chapter 60 of the 1927 Session Laws, delinquent farm loans are placed under the office of the Attorney General for securing title through foreclosure or otherwise. Mr. John C. Lyndes, Special Assistant Attorney General, has had charge of this work and has given it constant attention. Cordial cooperation exists between this branch of the Attorney General's office and this department in bringing about the best results for the State in the farm loan business.

The plan followed with all badly delinquent loans has been to secure title to the property by quit claim deed whenever satisfactory title could be obtained in that way, and if not, then through foreclosure proceedings. Encouragement is always given to the mortgagor to repurchase the property within the redemption period under the easy payment plan provided by our statutes. The purchaser is required to pay in cash at least 10% of the total investment including accrued interest and all costs; the balance draws interest at the rate of 5% per annum and is payable on the amortization plan through a period of 33 years.

Up to June 30th, 1930, a total of 904 repurchase contracts had been issued embracing more than 320,000 acres and representing more than \$2,105,000.00 invested in principal as shown in the foregoing table.

None of these lands has been sold for less than the full investment including taxes, costs, and all accrued interest; but it is realized that the time has come when lands must be sold for less than the total amount invested, and it is thought that statutory authority for such sales already exists.

Lands to which the State has obtained title but which have not been resold are placed under lease whenever possible. State Land Agent L. E. Choquette has taken charge of the leasing of these lands, and whenever possible agricultural lands are leased on a crop share basis which usually brings better results for the State than leases for cash rentals. He has also done a great deal of successful work in finding purchasers.

Section 74 of Chapter 60 of the 1927 Session Laws provides that whenever a sale of State lands is held in any county, all the mortgage lands owned by the State in such county to which the State has secured title shall be offered for sale. Section 77 of the same chapter provides that mortgage lands may also be advertised and sold at other than the regular sales of State lands held at the county seats, whenever the State Board of Land Commissioners so orders. These special sales of mortgage lands are held at the office of the Commissioner of State

Lands and Investments, and are conducted by means of sealed bids after the lands to be sold have been advertised for three successive weeks.

We know of no better plan to follow in dealing with the difficult problem arising from the State farm loans than the one here described. Briefly summarized this plan is to secure title to the lands under the delinquent loans as rapidly as possible through quit claim deeds or through foreclosure proceedings; next to resell the lands to the original mortgagor or others on the amortization plan.

TABLE No. XIV  
LEASES IN EFFECT JUNE 30, 1930

Showing the Number of Acres Under Lease in Each Grant  
and the Annual Rental

Name of Grant	Grazing Acreage	Annual Grazing Rental	Agri- cultural Acreage	Annual Agri. Rental
Public Schools .....	2,576,339.62	\$306,436.17	87,109.84	\$63,142.15
State University .....	9,833.71	1,186.10	135.00	77.50
Agri. Col.—Morrill Grant .....	46,010.46	5,975.22	253.00	186.85
Agri. Col.—Second Grant .....	9,823.50	1,413.40		
School of Mines .....	24,991.31	2,867.35	992.00	1,260.45
State Normal Schools .....	27,231.41	3,625.02	181.00	269.65
Deaf and Dumb Asylum .....	21,727.99	2,495.90	15.00	7.45
State Reform School .....	19,851.35	2,287.98	200.00	189.95
Capitol Buildings .....	36,951.09	4,642.61	794.16	561.60
Soldiers' Home .....	997.87	135.35		
Totals.....	2,773,758.31	\$331,065.10	89,680.00	\$65,695.60
<b>Summary</b>				
Total Acreage under Grazing Leases .....	2,773,758.31			
Total Annual Grazing Rental .....		\$331,065.10		
Total Acreage under Agricultural Leases .....			89,680.00	
Total Annual Agricultural Rental .....				65,695.60
Totals.....			2,863,438.31	\$396,760.70
35 Crop Share Leases .....			11,579.28	
Total Acreage Under Lease .....			2,875,017.59	
Average Grazing Rental Per Acre .....		\$0.12 minus (Exact Figure, \$0.11935)		
Average Agricultural Rental Per Acre .....		0.73 plus		
Minimum Share Rental—1/5th of all crops raised, delivered in the elevator.				
Total number of leases in effect including the 35 crop share leases—7,503.				

## ADDITIONAL INFORMATION IN REGARD TO LEASING AND RENTALS

### Acreage Under Lease

The leases above tabulated do not include leases on mortgage lands, as the rentals from these leases are in all cases considered as interest on the loans or part payment on principal, and credited accordingly.

The acreage under grazing lease on June 30th, 1930, was about 200,000 acres more than on June 30th, 1928, and the acreage under agricultural lease, including the 35 crop share leases, shows an increase of

nearly 5,000 acres. Considering the circumstance that the lands sold during the intervening two-year period exceeded 145,000 acres, practically all of which was under lease, we believe that this is an encouraging showing. It is true that a large portion of lands of the State still remains unleased, but this is largely due to circumstances over which we have no control. The unsold lands at the close of the fiscal year aggregated nearly 4,575,000 acres, and as the lands under lease aggregated a shade above 2,875,000 acres, it follows that about 1,700,000 acres is not under lease.

From this figure must, however, be deducted all State Forests embracing about 500,000 acres, leaving a balance of about 1,200,000 acres open for lease. State Forest lands are not subject to the ordinary grazing lease, but permits are issued by the State Forester for grazing on these lands at nominal rates, bringing an annual income of approximately \$7,000.00 to the State. The higher and rougher portions of the mountainous areas of the State are of course almost without any grazing value and largely inaccessible. It must also be taken into consideration that certain other sections of the State are so sparsely settled that even privately owned lands are unfenced and used as public range. In these portions of the State it is almost impossible to lease out State lands, no matter what the price might be.

There are two measures which we believe would materially aid in finding lessees for these inferior lands, and that is increased appropriations for our field work enabling us to keep more men in the field, and legislative enactment specifically authorizing the State Board of Land Commissioners to hold public leaseings in any county of the State where such leasing might be found necessary. Legislation to this effect was suggested in our 1928 report and is repeated in the present report.

#### Reasonableness of Rentals

As shown by the foregoing table, the average annual grazing rental is a shade below 12 cents per acre, and the agricultural rental is about 73 cents per acre. No one can reasonably contend that these rentals are too high. We believe that State lands should bring approximately the same rentals as it costs to use privately owned grazing lands of the same grade; and as the grazing lands belonging to the State are evenly distributed and great portions of them are selected lands, the grazing lands of the State should be fully up to the average in quality.

According to the report of the State Board of Equalization, the average assessed valuation of all privately owned grazing lands in the State for the year 1929 was \$4.58 per acre, and the average tax on all such lands was a little above 7 cents per acre. Whether a man owns his land outright or pays interest on mortgages on the land, the investment is entitled to a reasonable earning. Let us figure this earning at the modest rate of 5% per annum—most farmers are paying a higher rate of interest; at this rate the annual use of the average privately owned grazing land costs the owner 22.9 cents per acre. But this is not all; the man who owns his own grazing lands must also pay taxes and as



above stated this averages slightly above 7 cents per acre, making the annual cost to the owner of grazing lands nearly 30 cents per acre, or two and one-half times the average rental on State grazing lands.

Judging from the keen interest that lessees are now taking in keeping up rentals and obtaining additional leases, the people throughout the State are now beginning to realize that a lease on State lands is a highly valuable asset.

Leases are usually issued for a five-year period and the lessee who pays his rentals when due, and otherwise complies with the terms and conditions of the lease, has the preference in securing a new lease on the same land for an additional five-year term. If some other person obtains the lease on the land, he must pay the reasonable value of the improvements on the land belonging to the former lessee unless such lessee prefers to remove them.

### Constitutional Provisions

In discussing the rentals charged on State lands and in discussing the price or charge made for any other use of State land or interest therein, it is well to bear in mind that the use and disposition of State lands are pretty well determined by constitutional provisions, which in turn are based on the terms and conditions of the Enabling Act granting these lands to the State for the support and maintenance of our schools and colleges. The Supreme Court of our State has repeatedly ruled that the lands granted to the State for these purposes constitute a trust and must be so administered as to yield the best returns to the beneficiaries of the trust. Section 1 of Article XVII of the Constitution provides among other things as follows:

" \* \* \* and none of such land, nor any estate or interest therein shall ever be disposed of except in pursuance of general laws providing for such disposition, nor unless the full market value of the estate or interest disposed of, to be ascertained in such manner as may be provided by law, be paid or safely secured to the state \* \* \* "

The information just submitted as to the cost of the use of privately owned lands should be conclusive proof that rentals now prevailing for State lands do not exceed the full market value required by the Constitution. The fact that millions of acres of these lands are actually under lease and the rentals are being regularly paid should be absolute proof that the lessees regard the rentals as being within the market value. The people throughout the State are leasing these lands because they find that it pays them to do so and for no other reason whatsoever.

### Very Little Delinquent Rentals

Under Chapter 134 of the 1925 Session Laws now superseded by Chapter 60 of the 1927 Session Laws, the requirement of bonds to secure the payment of rentals has been abolished, and the statutes provide for the automatic cancellation of every lease through the failure of the lessee to pay the annual rental each year in advance. These statutes



are being strictly followed and as a result no great amount of delinquent rentals will accumulate on leases issued under these statutes.

### Undue Reduction in Rentals Unwarranted and Detrimental

The reduction of rentals below the actual rental values would be more far reaching in its detrimental results than may appear on the surface. If these lands could be leased at nominal rentals and the lessee could have secure possession through a long series of years, there would evidently be no incentive whatever to purchase; he would regard it as rank foolishness to do so. The lands must be sold in order to contribute their full share to the upbuilding and development of the State; and the proceeds from the sale of the lands will yield far greater income than the rentals.

It is admitted that reduction of rentals would save money for the lessees; but the 7,500 leases outstanding are in the hands of less than 3,000 families, while the lands belong to all the people of the State, numbering more than one hundred thousand families. The land should evidently be administered insofar as possible for the equal advantage and benefit of all the one hundred thousand families of the State; and this can only be accomplished by administering the same on sound business principles in full accordance with the Constitution and Enabling Act, which granted the lands to the State of Montana for the support and maintenance of its public schools and higher institutions of learning.

TABLE No. XV  
OIL AND GAS LEASES IN EFFECT JUNE 30, 1930

Name of Grant to Which the Land Under Lease Belongs	No. of Leases	No. of Acres Under Lease	Annual Rental
Public School .....	296	111,877.42	\$83,838.43
Agricultural College .....	3	1,320.00	990.00
School of Mines .....	2	478.68	359.01
State Normal School .....	5	561.21	440.90
Public Buildings .....	2	520.00	390.00
Mortgage Lands .....	14	4,118.69	3,090.00
Totals.....	322	118,876.00	\$89,108.34

### RENTALS AND ROYALTIES COLLECTED

Year	Rentals	Royalties
Year ending June 30, 1929 .....	\$ 56,147.89	\$138,806.57
Year ending June 30, 1930 .....	93,279.04	150,471.53
Totals.....	\$149,426.93	\$289,278.10
Total of rentals and royalties for two years .....		\$438,705.03

For further information in regard to these rentals and royalties see Tables I, II, V, and VI.

## ADDITIONAL INFORMATION IN REGARD TO LEASING OF STATE LANDS FOR OIL AND GAS

The leasing of State lands for oil and gas exploration and development is governed by Chapter 108 of the 1927 Session Laws which went into effect April 15th of that year. Only seven leases issued prior to that date remain in effect, except those which have been renewed or exchanged for the new form of lease under this chapter.

Under the provisions of this act, oil and gas leases on State lands are granted for a period not exceeding five years and as long thereafter during the term of fifteen years commencing with the date of the lease as oil and gas in commercial quantities are produced from the land. The annual rental is fixed at the flat rate of 75 cents per acre, but with a minimum annual rental under any one lease of \$50.00.

The lessee is required to drill at least one well on the land under his lease within two years from the date of the lease. The State Board of Land Commissioners may, however, in its discretion extend the time for the commencement or completion of such drilling upon the payment of a penalty of one dollar per acre per year for each year beginning with the third year of the lease, payable annually in advance.

In addition to these rentals and penalties, if any, there shall be reserved to the State a royalty on the oil and gas produced and saved, which royalty shall in no case be less than  $12\frac{1}{2}\%$  of the production.

Under the provisions of this act the State Board of Land Commissioners has adopted a form for oil and gas lease setting out in detail the rights and obligations both of the lessor and the lessee. Under Section 3 of this lease the royalties to be paid to the State are graduated according to the production as follows:

- A. On that portion of the average production of oil or casing-head gasoline for each producing well not exceeding 3,000 barrels for the calendar month, twelve and one-half per centum ( $12\frac{1}{2}\%$ ).
- B. On that portion of the average production of oil or casing-head gasoline for each producing well exceeding 3,000 barrels but not exceeding 6,000 barrels for the calendar month, seventeen and one-half per centum ( $17\frac{1}{2}\%$ ).
- C. On that portion of the average production of oil or casing-head gasoline for each producing well exceeding 6,000 barrels for the calendar month, twenty-five per centum (25%).

The royalty on gas is fixed at the flat rate of  $12\frac{1}{2}\%$ . Since this lease went into effect, no production on State lands has brought the State's royalty above  $12\frac{1}{2}\%$ .

The lessee is also required to furnish a surety company bond in the amount of \$1,000.00 conditioned for the faithful performance of his obligations under the lease, and the State Board of Land Commissioners reserves the right to increase this bond if found necessary.

Under this legislation all existing oil and gas leases issued by the State before Chapter 108 went into effect, are ratified, confirmed and approved subject only to the provision that the holder of any such lease must within 90 days give his consent in writing to the amendment of the former lease so as to give the State the right at all times to receive its royalties in money or in oil.

The holder of an oil and gas lease previously issued by the State is also given the right to exchange the former lease for a lease issued under the new act.

### State's Royalty Oil Sold at a Premium

It should be noted that under the provisions of Section 4 of the said Chapter 108 and the terms of the lease, the lessee must pay the royalties in cash or in oil or gas at the option of the State Board of Land Commissioners. From November 1st, 1927, and up to the present time, the State has taken its oil royalties in oil and has sold the oil at substantial premiums above the posted field price through contracts with oil refineries or oil operators. The sales contracts entered into have been as follows:

Name of Purchaser	Term	Field	Price
Arro Oil & Refining Co., Lewistown, Montana	Nov. 1, 1927 to Nov. 30, 1928	Kevin-Sunburst Field	12 $\frac{1}{4}$ c per barrel above the posted field price.
Bluebird Oil & Refining Co., Butte, Montana	Nov. 1, 1927 to Nov. 1, 1930	Cat Creek Field	90c per barrel above the posted field price.
Conrad Refining Co., Conrad, Montana	Dec. 1, 1928 to Nov. 30, 1929	Pondera Field	16 $\frac{1}{2}$ c per barrel above the posted field price in the Kevin-Sunburst Field.
Shelby Pipeline & Refining Co., Shelby, Montana	Dec. 1, 1928 to Nov. 30, 1929	Kevin-Sunburst Field	15c per barrel above the posted field price.
Conrad Refining Co., Conrad, Montana	Dec. 1, 1929 to Nov. 30, 1930	Pondera Field	21 $\frac{1}{4}$ c per barrel above the posted field price in the Kevin-Sunburst Field.
Boris A. S. Aronow, Shelby, Montana	Dec. 1, 1929 to Nov. 30, 1930	Kevin-Sunburst Field	12 $\frac{1}{4}$ c per barrel above the posted field price.

The act governing the disposition of oil and gas in State lands has been found workable and satisfactory throughout; and it is believed that the State has been fairly successful in its administration.

### Mrs. Nanita B. Sherlock, Assistant Commissioner, in Charge of All Leasing

Mrs. Nanita B. Sherlock of Lincoln, Montana, has served as Assistant Commissioner of State Lands and Investments continuously since the spring of 1925. At the present time she has full charge of all leasing including agricultural and grazing, coal, oil and gas leases. When we call to mind that there are more than 7,500 agricultural and grazing leases in effect and 322 oil and gas leases, we will realize that this is a vast

business. The total income from all leases during the last fiscal year was nearly one-half million dollars, not including royalties. This comprehensive work necessarily requires close and continuous attention to the mass of detail involved, and a thorough understanding of the needs and problems of the farmer and stockgrower. Mrs. Sherlock has conducted all this voluminous and exacting business with perfect conscientiousness and fairness to all concerned, with the highest degree of intelligence and efficiency and with unfailing courtesy. It would be exceedingly difficult for anyone to improve on the leasing service that she is giving to the thousands of lessees throughout the State.

**TABLE No. XVI**  
**EASEMENT DEEDS TO STATE LANDS ISSUED FROM**  
**JULY 1, 1928, TO JUNE 30, 1930**

For What Purpose	No. of Deeds Issued	Acres	Compensation	Fees
Rights of Way for Pub. Highways	64	329.12	\$ 9,043.76	\$320.00
Telephone, Telegraph, Pipe and				
Power Lines .....	69	178.17	4,227.00	345.00
Railway Rights of Way .....	12	129.32	2,833.71	60.00
School House Sites .....	7	16.55	404.00	35.00
Canals and Ditches .....	4	20.36	211.25	20.00
Totals.....	156	673.52	\$16,719.72	\$780.00

Compensation for easements is regarded as payment on the land itself and added to the permanent fund of the institution to which the land belongs.

All easements in State lands are now granted under the provisions of Sections 56 to 63 of Chapter 60 of the 1927 Session Laws.

Section 57 of the Act makes suitable provision for the granting of easements in State lands for school house sites and grounds, for public parks, community buildings, cemeteries and other public uses. The former statutes relating to this subject were entirely inadequate. Section 58 provides for the establishment of public highways on State land section lines without proceedings before the State Board of Land Commissioners, and this saves a great deal of unnecessary proceedings both for the county authorities and State officials. Sections 61 and 62 make it absolutely plain that when easements are wanted for public highways or other purposes over State lands outside of section lines, proper compensation and damages must be paid to the State in full harmony with the provisions of the Constitution.

This helpful legislation is a small part of the comprehensive and constructive measure for the reorganization and operation of this department that Governor Erickson recommended to the Legislature in 1927.

TABLE No. XVII  
SUMMARY OF ALL LAND SALES FOR THE TWO FISCAL YEARS BEGINNING JULY 1, 1928  
AND TERMINATING JUNE 30, 1930

Date	Name of County	Public School (acres)	Agri. Coll. 1st Gt. (acres)	Agri. Coll. 2nd Gt. (acres)	School of Mines (acres)	State Normal School (acres)	Capitol Buildings (acres)	Orphans' Home & T. B. San. (acres)	Soldiers' Home (acres)	Total Acres	Total Sales Price	Average Price Per Acre
July 1st, 1928 to June 30th, 1929	Sheridan	4,446.70								4,446.70	\$ 51,374.13	\$11.55
	Daniels	58,051.39								58,051.39	\$808,298.93	13.92
	Roosevelt	2,306.77								2,306.77	\$55,026.82	15.18
	Valley	15,436.86								15,436.86	\$217,014.96	14.06
	Phillips	1,480.00								1,480.00	\$17,400.00	11.76
	Blaine	4,960.00								4,960.00	\$74,020.00	14.92
	Hill	8,870.80								8,870.80	\$94,728.18	10.68
	Chouteau	10,319.17	494.60		560.00					11,373.77	\$162,379.85	14.28
	Cascade	1,610.25								1,610.25	\$38,816.25	24.11
	Judith Basin	3,679.66			320.00	80.00				4,079.66	\$75,111.84	18.41
	Fergus	1,765.07							58.90	1,823.97	\$27,790.90	15.24
	Wheatland	1,350.00								1,350.00	\$15,130.00	11.21
	Lewis and Clark	1,924.38								1,924.38	\$23,690.84	12.31
	Totals	116,201.05	494.60		880.00	80.00			58.90	117,714.55	\$1,610,782.70	\$13.94
July 1st, 1929 to June 30th, 1930	Pondera	7,867.12	200.00				80.00			8,147.12	\$122,687.60	15.06
	Teton	11,542.13	200.00		1,280.00	702.88	80.00			13,805.01	\$222,948.22	16.15
	Glacier*	1,081.04								1,081.04	\$13,005.40	12.03
	Lincoln	207.83								207.83	\$2,297.86	11.05
	Lake	1,666.13								1,666.13	\$23,399.88	14.04
	Granite	400.00								400.00	\$4,000.00	10.00
	Powell	158.00								158.00	\$2,950.00	18.67
	Carbon	360.00								360.00	\$5,160.00	17.11
	Stillwater	400.00								400.00	\$5,250.00	13.22
	Gallatin	160.00		160.72			320.00	10.00		640.72	\$10,727.20	16.74
	Pondera	520.00								520.00	\$8,960.00	17.23
	Glacier**						77.32			77.32	\$4,060.00	52.50
	Totals	24,362.25	400.00	160.72	1,280.00	702.88	557.32	10.00		27,473.17	\$426,615.16	\$15.53
TOTAL FOR BOTH YEARS										145,187.72	\$2,067,397.86	\$14.24

\* Also \$2,195.00 for 20 town lots sold in Glacier County; this is included in total price above.

\*\* Also \$1,700.00 for 11 town lots sold in Glacier County; this is included in total price above.



### State Lands Should be Sold as Fast as Demand Arises

It was the intent and purpose of the Enabling Act, granting the lands to the State, that they should be sold and converted into permanent funds as soon as practicable. The administration of the lands through leasing is difficult and unsatisfactory for several reasons. The lands are not grouped in large bodies but are scattered throughout the length and breadth of the entire State as shown in Table No. XII, "Unsold Lands."

Under the Enabling Act the quantity which may be leased to one person or company is limited to one section, necessitating a great number of individual leases; and the field force has never been sufficient in number on account of lack of appropriations. For these reasons and many others the leasing administration of the millions of acres of unsold lands is a difficult business, and notwithstanding our best efforts, the results can not be regarded as entirely satisfactory. Other states and other countries have experienced the same difficulties and unsatisfactory results. As far as I know, Germany is the only country in civilization that has had satisfactory results from the administration of its State owned lands; but Montana would not want the highly developed officialdom that ruled Germany before the war; we want less government irrespective of results.

The lands must be sold and brought into private ownership in order to bring forth the best results in management and crop production; only by being brought into private ownership will the lands contribute their proper share toward the development of the community in which they are located. The income realized from the sales price will in nearly all cases far exceed the rentals, and the cost of administration is a great deal lower. It is believed, therefore, that the policy followed by the State Board of Land Commissioners during the last six years of conducting land sales whenever reasonable demand develops, is a sound policy which should be continued.

The reasons above given for the sale of State lands do not apply to timber lands. There are intrinsic reasons why at least some forests must be administered by the State and Nation. This has been done from ancient times and is the well established policy of civilized countries throughout the world today.

TABLE No. XVIII  
SUMMARY OF ALL LAND SALES UP TO JUNE 30, 1930

Fiscal Year	Public School (acres)	University (acres)	Agri. College Morrill (acres)	Agri. College 2nd Gt. (acres)	School of Mines (acres)	State Normal (acres)	Deaf and Dumb (acres)	State Reform (acres)	Capitol Buildings (acres)	Total Acres	Total Sales Price	Ave. Price Per Acre
1897 and Prior Years.....	10,070.76	2,870.13	.....	.....	.....	80.00	.....	960.00	641.98	14,622.87	\$ 186,280.89	\$12.739
1898.....	1,816.06	160.00	.....	.....	.....	160.00	.....	.....	40.00	2,176.06	24,075.50	11.063
1899.....	2,442.03	608.42	.....	116.30	.....	.....	560.00	.....	.....	3,726.75	41,110.00	11.031
1900.....	760.00	82.70	.....	.....	.....	.....	.....	.....	.....	842.70	12,092.00	14.349
1901.....	2,076.00	520.00	233.28	40.00	262.81	363.13	280.00	339.40	622.80	4,737.42	61,029.00	12.882
1902.....	9,031.29	3,560.90	80.00	286.90	193.00	417.26	120.00	320.00	1,400.30	15,409.65	227,226.24	14.745
1903.....	10,294.29	1,334.95	416.06	781.85	1,190.98	1,027.12	376.54	17.20	945.08	16,384.07	175,084.66	16.686
1904.....	6,227.41	716.90	338.43	247.52	9.37	1,102.90	8.58	6.08	208.06	8,865.25	142,118.02	16.030
1905.....	5,878.82	828.67	103.37	120.00	409.83	524.18	1,000.00	40.00	1,301.34	10,206.21	114,836.31	11.251
1906.....	16,676.28	520.00	392.48	760.00	373.58	568.86	778.41	487.37	2,041.12	227,598.10	287,407.43	12.718
1907.....	19,331.27	1,121.72	3,820.75	.....	7,182.18	9,358.26	2,056.15	1,937.02	9,904.27	54,711.62	777,512.20	14.211
1908.....	16,356.36	1,117.29	9,344.06	.....	5,640.06	4,802.31	3,470.64	640.00	9,650.15	51,020.81	604,288.00	11.843
1909.....	3,800.86	36.98	.....	06	14.78	494.42	.....	.....	680.79	5,007.89	80,398.50	16.054
1910.....	97,856.38	9,507.15	.....	993.81	11,364.96	5,710.04	320.00	329.53	16,256.85	142,338.72	2,733,171.98	19.201
1911.....	17,704.06	640.00	1,035.07	2,836.04	4,475.55	282.00	1.23	160.00	2,600.00	56,897.91	729,888.72	12.819
1912.....	188,258.13	2,537.52	3,920.11	2,836.04	6,657.43	1,604.84	700.07	875.48	2,820.24	210,210.86	3,389,868.37	16.126
1913.....	84,513.79	1,309.73	1,963.21	2,219.40	2,107.41	2,682.98	440.00	3,271.32	5,048.61	103,506.45	1,670,852.23	16.142
1914.....	19,050.82	23.02	280.00	1,218.65	1,207.41	3.93	313.18	1,596.60	647.36	23,133.06	325,712.85	14.079
1915.....	54,745.26	861.78	1,185.08	235.85	1,910.93	931.08	151.38	914.96	1,404.71	62,341.03	971,463.59	15.583
1916.....	113,770.54	1,720.62	2,720.18	1,430.00	1,999.86	1,579.07	1,167.81	200.83	869.69	125,668.60	1,979,599.19	15.751
1917.....	66,071.51	557.21	1,840.00	560.00	3,843.07	240.00	1,840.00	1,410.78	884.40	77,246.97	1,213,123.28	15.691
1918.....	102,584.68	2,489.34	14.63	2,921.74	1,282.79	1,282.79	211.70	440.00	274.88	110,219.76	1,870,368.24	16.960
1919.....	145,905.46	160.00	785.06	232.50	1,765.76	1,288.11	1,360.00	240.22	631.81	158,048.92	2,491,803.44	15.766
1920.....	22,096.93	1,042.00	720.22	.....	.....	.....	.....	160.32	251.23	24,270.70	369,095.36	15.207
1921.....	2,438.44	.....	.....	.....	.....	.....	4.31	480.00	.....	2,918.44	47,571.91	16.300
1922.....	650.01	.....	70.90	.....	.....	.....	831.25	.....	.....	654.32	7,391.32	11.296
1923.....	731.91	.....	120.00	.....	.....	.....	22.59	.....	1.11	1,643.06	16,430.60	10.000
1924.....	145.83	.....	.....	97	.....	8.83	.....	.....	.....	239.33	4,466.98	14.866
1925.....	2,026.62	.....	.....	.....	.....	40.80	.....	.....	.....	2,067.42	49,892.54	24.123
1926.....	53,088.14	.....	.....	.....	.....	.....	.....	.....	.....	53,146.98	750,960.29	14.129
1927.....	46,592.89	.....	.....	.....	.....	.....	.....	.....	.....	46,592.89	653,190.81	14.019
1928.....	25,881.72	57.22	.....	160.00	764.46	680.00	.....	.....	445.41	28,008.81	503,170.66	17.951
1929.....	116,201.05	.....	494.60	160.72	880.00	80.00	.....	.....	.....	117,714.55	1,640,782.70	13.94
1930.....	24,362.25	.....	400.00	.....	1,280.00	702.88	.....	.....	557.32	27,473.17	426,615.16	15.53
Totals.....	1,323,437.35	31,894.91	32,761,201.22	14,655,201.51	24,707,335.65	79,16,013.84	14,828.11	65,789.51	1,584,711.35	\$24,576,379.87	\$15.51	

As already explained in this report, a great number of sales contracts have been cancelled on account of delinquency in payments. These cancellations are not taken into account in this summary; the summary shows the results of the sales as they were made.

It will be noted that the average sales price for all these lands is \$15.51 per acre, more than 50% above the minimum sales price of \$10.00. It should be borne in mind, however, that the best lands sell first; it can not be expected that the remaining lands will bring the same high average. In 1916 there was sold 160 acres Soldiers' Home land at \$18.00 per acre, amounting to \$2,880.00; and in 1926, 58.84 acres at \$18.00 per acre, amounting to \$1,059.12; and in 1929, 58.90 acres at \$18.00 per acre, amounting to \$1,060.20. These sales are included in the totals above given. At the 1928 sales 20 acres were sold belonging to the Orphans' Home and T. B. Sanitarium fund; and in 1930, 10 acres at \$50.00 per acre, amounting to \$500.00; both the acreage and the proceeds are included in the totals above given.

## INVESTMENT OF PERMANENT FUNDS

This important function of the Department is briefly discussed on the first page of the letter to the Governor, and tabulated and explained in Tables No. III and No. VII. The total of these investments during the last two fiscal years reached the significant sum of \$9,552,402.19. It is mentioned here among the activities of the Department in order to bring it more conspicuously to the attention of the reader. It is evident that this branch of the activities of the Department will soon become the most important. The time will come in the distant future when all the lands, or nearly all of them, will have passed into private ownership, and the problems of the Department will then resolve themselves into the one big problem of making safe, long time investments yielding a reasonable rate of interest. The gradual development of the State's investment business in accord with sound and up to date finance is therefore of the utmost importance.

## MONTANA TRUST AND LEGACY FUND

A new permanent fund has recently come under the administration of this Department—the Montana Trust and Legacy Fund. In our 1928 report, we recommended legislation for a unified investment plan under which any number of funds could be administered as one common fund, to be known as the Montana Trust and Legacy Fund. The legislative assembly responded by the enactment of what is now Chapter 70 of the 1929 Session Laws, based upon Article XXI of the State Constitution. The Montana Trust and Legacy Fund has now become a reality. On June 30th, 1929, the total assets belonging to this fund amounted to \$79,381.28, belonging to the following separate funds:

Escheated Estates Fund .....	\$70,411.96
Senator Walsh Endowment Fund .....	5,000.00
School Children's Exhibit Building .....	3,771.17
Orphans' Home and T. B. Society .....	198.15
Total.....	<hr/> \$79,381.28

The net interest earnings of the fund will be apportioned to each separate fund at the end of each year and applied as directed by the giver or by the statutes.

A little further information in regard to this fund appears to be proper at this point:

### The State Will Accept Gifts, Etc., and Administer the Fund Perpetually

Article XXI of the State Constitution and Chapter 70 of the 1929 Session Laws provide among other things that the State will accept gifts, donations, grants and legacies in any amount or value of not less than \$250.00 each for the benefit of scientific, educational, benevolent and

charitable work; hold the same in trust, invest them safely in good securities and apply the net earnings as directed by the giver, subject of course to certain limitations.

### **Safe and Enduring Machinery Provided for the Administration of the Funds**

Let it not be thoughtlessly assumed that it would be an easy matter for the private citizen of limited means to provide machinery of his own suitable for the safe and perpetual administration of his gift. For the very wealthy man it is possible to build up an organization that will endure for some time; but for the person of moderate means this would be next to impossible. The administration of funds that are to endure for a long time is pre-eminently a function of government; the State alone possesses that duration of life and permanency of organization which is absolutely necessary.

Our constitution and the new statutes now provide that the State Board of Land Commissioners shall have charge of the investment and administration of all such funds entrusted to the State; in other words, the Governor, Superintendent of Public Instruction, Secretary of State and Attorney General. This board already has under its administration permanent funds and investments exceeding \$16,000,000.00 belonging to the schools and educational institutions of the State. The experience and organization that this board has developed in the administration of these enormous funds should make it exceptionally well qualified to handle additional trust funds. The record of this board for making safe investments is most excellent; outside of some excessive farm loans made a few years ago, there is no record of a single loss sustained in all its investments.

### **Supreme Court Justices a Supervisory Board**

Our constitution and statutes provide for additional safeguards in the investment administration of these miscellaneous trust funds contributed by individual citizens. While the State Board of Land Commissioners has direct charge of the administration of the funds, this administration is subject to the supervision of the Justices of the Supreme Court. The constitution itself provides that "It shall be the duty of the supervisory board to do and perform all acts and things that it may deem necessary in order to cause the board and officers having direct charge of these funds to administer the same carefully and wisely . . ."

Through this double organization we are assured of a non-political administration by public-spirited officers of the highest intelligence, finest honor and most adequate business experience and capacity. In the very nature of things this administration will have perpetual succession as long as the State itself. The organization planned for administering these trust funds is probably the very best that the State of Montana could provide.



### **Funds Can Not Be Used for Speculative Purposes**

The constitution and the statutes very explicitly limit the investments of these various funds to the same kind of investments that may be made from the permanent school fund and other permanent funds of the State, that is to public bonds, State warrants and similar securities. It is the purpose of these explicit provisions to make it impossible so to construe the act as to permit the use of the funds for any speculative business whatsoever. Their use is strictly confined to safe loans and bonds.

### **Simplicity of Administration**

Eventually, numerous separate funds will be administered by the State under this plan. To invest them separately would be burdensome and impracticable; it simply wouldn't work; hence a different plan is provided. Both the constitution and the statutes provide that all these funds shall be invested as one common fund to be known and designated as the **Montana Trust and Legacy Fund**. At the end of each year the State Treasurer shall ascertain the amount of interest collected during the year on all of the funds constituting the Montana Trust and Legacy Fund, pay over to the State one-twentieth of the interest collected and credit each and every fund with its share of the balance or net earnings. These net earnings are to be paid over to the beneficiaries or added to the fund itself in accordance with the directions of the giver.

Under this joint investment plan the funds may at all times be kept closely invested; all funds large or small will receive the same attention, the same advantage of good investments and the same rate of interest. The plan will also automatically insure every fund against loss to the full extent of the aggregate amount of all the funds. In case of loss, the loss would automatically distribute itself among all the funds. No fund will be extinguished unless all the funds are extinguished.

### **The Givers Will Be Remembered**

It is a very common thing that people of means set aside a part of their fortune for the building of monuments or as an endowment for some form of welfare work. This aspiration for some part in the work of the future and the desire to be remembered by posterity are fundamental traits in human nature and have shown themselves from the earliest times known to history.

The plan worked out by the State of Montana for the administration of gifts for these various and numerous purposes should have a strong appeal to these traits in human nature. In a manner, it extends the ambitions and activities of the givers into the distant future, and it makes ample provision for the remembrance of their names. The constitution itself provides that the State Treasurer shall keep a permanent record of all such gifts, donations, grants and legacies showing the names of the givers, the purpose of the contribution and other essential facts re-



lating thereto. A duplicate of this record shall be kept by the Secretary of State. These records shall be preserved perpetually as a lasting memorial to the givers and their interest in society.

## RECORD OF TITLE TO STATE LANDS

Approximately 1/16th of all the lands within the boundaries of the State of Montana were granted by the Federal Government to the State itself for the support of education and other purposes. These grants are discussed and tabulated somewhat fully later on in this report under the title "History of the Federal Land Grants." Sections 16 and 36 were given for the support and maintenance of public schools and grants in quantity were made to the various State institutions. **But the mere granting did not confer full title.** Sections 16 and 36 had to be surveyed, and before this survey was made and approved by the General Land Office, homestead entries might have been made on these lands or other rights established. Federal Forest Reserves embraced hundreds of thousands of acres of school lands. In such cases other lands had to be selected. All of the lands granted in quantity had to be selected and the selections approved. As the Federal Government excepted mineral lands from the grants originally made to this State, this further complicated matters. When the State acquired title, the lands became subject to sale and the granting of easements. It is, therefore, evident that it is of the utmost importance to compile a complete set of records showing the exact status of title to all the lands granted to the State of Montana. The State can only give what title it has received; and it must also be careful not to tangle up the title it gives by conflicting or overlapping grants.

One of the objects of the record that we are preparing is to show every parcel of land lost to the State and what land has been selected in its place. Approximately 4,500 acres of lost lands have been discovered for which no other lands had been received. Lieu lands are now being selected.

The completed record will show the grant to which each tract of land belongs, the time when title passed to the State from the United States, the patent or clear list page of all selected lands, and all government reservations, if any. It will also show what easements, sales contracts and patents are issued by the State and the reservations to which they are subject. The lands are arranged in the record strictly in accordance with their location as to part of section, section number, township and range, making the information easily available. The work has been in progress about two years, is now more than half finished, and is rapidly advancing toward completion. Without a complete record of this kind, delay, confusion, error and loss would inevitably follow in the sale and other disposition of the lands of the State.

Mr. H. K. White, M. A., is in charge of this useful and comprehensive work.

## ACTIVITIES OF THE STATE LAND AGENT

Mr. L. E. Choquette has held the office of State Land Agent continuously since March, 1926. He has devoted his entire time and energies to the many exacting duties of the office, and his administration has been highly successful. During the last two fiscal years the work of selecting lieu lands for those lost to the State has continued and is now practically completed. The best lands available have at all times been selected and all the selected lands have been leased as soon as sufficient title has been obtained from the Government, thereby materially adding to the income for the schools. As already mentioned in connection with the farm loans, Mr. Choquette has also been very active in finding lessees and purchasers for mortgage lands.

On account of the great amount of road building carried on by the State Highway Commission and the activities of power and light, oil and gas, telephone and telegraph companies in constructing new lines, there has been an unusually large amount of work in examining rights of way.

During the last fiscal year, the fieldmen working under Mr. Choquette have devoted nearly all their time to reappraising State lands in the counties of Rosebud, Custer, Fallon, Carter, Powder River, Prairie, Wibaux and Garfield. The last previous appraisals in these counties were made during the boom period immediately following the war, and for that reason the appraisals were out of proportion to other counties of the State. The work now going on will place the lands in these counties on the same basis as the lands in other counties throughout the State. The fieldmen have been highly successful in finding lessees for the very greater portion of all State lands in these counties.

Owing to insufficient appropriations only three fieldmen have been employed, namely: H. C. Biering of Bozeman, Wm. P. Pilgeram of Armington and James W. Masterson of Meredith. These three excellent men have been in the employ of the State Land Agent for a number of years and are doing splendid work.

Mr. Choquette feels that the force is entirely insufficient in number to take care of the great amount of work that should have been done in the proper administration of the lands of the State, and suggests that the next legislative assembly appropriate sufficient funds to employ two more men in the field.

## PERSONAL MENTION

This Department is under deep obligations to a great number of people throughout the entire State for their kind and helpful attitude. Their number is so great that it would be difficult to name all of them. Allow us to mention Hon. James Griffin, former Senator from Blaine County; Hon. Albert Holton, Senator from Garfield County; Hon. D. A. Dellwo, Representative from Lake County; Hon. T. E. Nelstead, Repre-

sentative from Carter County; Dr. M. A. Brannon, Chancellor of the State University, Dr. H. H. Swain, Executive Secretary; Dr. R. J. Cunningham, Secretary of the Montana Education Association; Dr. N. J. Lennes, Dean of the Department of Mathematics of the State University, and Dr. Francis A. Thomson, President of the School of Mines. The friendly and encouraging attitude of these gentlemen, and the constructive work that they have performed in aiding to build up this Department should be long remembered. Dr. Thomson of the School of Mines has rendered very special services; notwithstanding the exacting duties of his office, he has found time to make several mineral examinations of State lands which will be of lasting value to the State. A great number of other persons should have been enumerated among our helpful friends.

TABLE No. XIX  
COST OF ADMINISTRATION

Office of Commissioner of State Lands and Investments	July 1, 1928, to June 30, 1929	July 1, 1929, to June 30, 1930
<b>Salaries:</b>		
Commissioner .....	\$ 3,600.00	\$ 3,600.00
Assistant Commissioner .....	2,400.00	2,400.00
Other Salaries .....	14,490.98	16,225.87
Salaries Compiling New Abstract .....	2,052.00	
	\$22,542.98	\$22,225.87
Premiums & fee for Official Bonds .....	147.50	150.50
Postage, including stamped envel's..	1,054.40	1,158.90
Telephone and Telegraph .....	227.25	255.56
Record Books and Blanks .....	863.90	633.52
Printing Reports .....	212.37	
Sundry Office Supplies .....	917.29	506.38
U. S. Land Office Filing Fees for Lieu Land Selections .....	80.00	22.00
Legal Advertising for Lieu Land Selections .....	61.00	94.00
U. S. Plats of New Surveys .....	72.50	6.75
Mileage and Expense of Bond Sales and other Traveling Expense .....	35.03	108.56
Advertising Mortgage Land for Sale Expense of State Land Sales:	89.80	53.07
Advertising Lands Offered for Sale .....	944.60	931.16
Mileage and Expense Attending Sales .....	286.16	255.76
	1,230.76	1,186.92
Furniture and Equipment .....	145.19	69.60
Records for Compiling Abstracts of Title .....	232.50	
	\$27,912.47	\$26,471.63
<b>Office of State Land Agent</b>		
Salaries .....	8,940.00	7,775.00
Traveling Expenses of Fieldmen and Other Operating Expenses.....	7,885.71	5,289.65
	16,825.71	13,064.65
<b>Total Cost of Administration.....</b>	<b>\$44,738.18</b>	<b>\$39,536.28</b>

**TABLE No. XX**  
**RECEIPTS FROM STATE LANDS AND THE**  
**PERMANENT FUNDS BY YEARS**

Prior to 1896 .....	\$	172,190.71	
During 1896 .....		38,185.23	
1897 .....		101,755.98	
1898 .....		126,833.71	
1899 .....		200,195.20	
1900 .....		200,275.25	
1901 .....		293,335.75	
1902 .....		363,584.63	
1903 .....		388,279.13	
1904 .....		389,812.60	
1905 .....		357,790.52	
1906 .....		651,352.62	
1907 .....		829,480.06	
1908 .....		805,105.35	
1909 .....		434,429.96	
1910 .....		826,836.01	
1911 .....		695,771.74	
1912 .....		1,306,892.75	
1913 .....		1,223,857.96	
1914 .....		1,122,205.27	
1915 .....		1,219,602.97	
1916 .....		1,657,639.21	
1917 .....		1,812,812.29	
1918 .....		1,828,712.43	
1919 .....		2,263,728.95	
1920 .....		1,770,070.57	
1921 (Dec. 1, 1920, to June 30, 1921).....		699,653.74	
1922 .....		1,290,891.25	
1923 .....		1,408,325.48	
1924 .....		1,183,456.66	
Total.....	\$	25,663,054.98	

  

	Income	Receipts for Permanent Funds	
July 1, 1924-June 30, 1925.....	\$1,101,763.73	\$360,994.55	\$ 1,462,758.28
July 1, 1925-June 30, 1926.....	1,276,841.10	645,211.40	1,922,052.50
July 1, 1926-June 30, 1927.....	1,403,869.20	697,056.60	2,100,920.80
July 1, 1927-June 30, 1928.....	1,583,485.78	703,791.39	2,287,277.17
July 1, 1928-June 30, 1929.....	1,588,916.71	745,245.45	2,334,162.16
July 1, 1929-June 30, 1930.....	1,536,964.63	563,716.54	2,100,681.17
GRAND TOTALS.....			\$37,870,907.06

This table shows the receipts both for the income funds and for the permanent funds belonging to the public schools and the State institutions of learning for which federal lands grants were made and also the receipts for the Capitol Building Fund. For the last six fiscal years the income has been separated from the receipts belonging to the permanent funds, but the receipts for the permanent funds for these six fiscal years do not include repayments on bonds, warrants and other investments; only the original receipts for these permanent funds are here shown. For an itemized statement of all receipts both for the income funds and the permanent funds for these years see Tables Numbered I, II, V and VI.

TABLE No. XXI

**ANNUAL APPORTIONMENT OF THE INCOME FROM THE PUBLIC SCHOOL  
PERMANENT FUNDS, ETC., TO THE SCHOOL DISTRICTS  
OF THE STATE**

YEAR IN WHICH APPORTIONED						Amount Apportioned	Number of Persons of School Age	Amount Per Capita
1889 to 1896 .....						\$ 51,027.60	39,252	\$1.30
1897 .....						17,731.56	42,218	.42
1898 .....						28,630.98	46,179	.62
1899 .....						41,561.52	49,478	.84
1900 .....						80,428.50	53,619	1.50
1901 .....						105,842.20	57,212	1.85
1902 .....						138,905.00	61,736	2.25
1903 .....						168,019.80	64,623	2.60
1904 .....						169,786.65	66,583	2.55
1905 .....						183,366.75	69,195	2.65
1906 .....						205,360.60	70,814	2.90
1907 .....						217,494.00	72,498	3.00
1908 .....						227,071.90	73,249	3.10
1909 .....						250,380.00	77,040	3.25
1910 .....						305,793.75	81,545	3.75
1911 .....						266,415.00	88,805	3.00
1912 .....						345,404.50	98,687	3.50
1913 .....						419,096.00	104,774	4.00
1914 .....						513,144.00	114,032	4.50
1915 .....						632,085.00	126,417	5.00
1916 .....						713,291.25	135,865	5.25
1917 .....						810,991.50	147,453	5.50
1918 .....						877,536.00	159,552	5.50
1919 .....						890,873.50	161,977	5.50
1920 .....						969,756.00	161,625	6.00
1921 .....						954,418.20	156,426	6.10
1922 .....						785,082.90	160,211	4.90
1923 .....						936,794.40	160,410	5.84
1924 .....						892,363.54	157,745	5.67

  

	Income From Permanent Fund	25% of Oil Tax	50% of Metals Mines Tax	Total	Less 5% Added to Perm. Fund			
1925 .....	\$ 850,360.89	\$10,917.67	.....	\$ 861,278.56	\$43,063.93	\$ 818,214.63	157,872	\$5.18+
1926 .....	1,038,624.11	26,878.08	\$187,093.64	1,252,595.83	62,629.79	1,189,966.04	156,383	7.61
1927 .....	1,121,130.17	41,190.62	202,860.30	1,365,181.09	68,259.05	1,296,922.04	154,458	8.3966
1928 .....	1,233,910.50	.....	.....	1,233,910.50	61,695.53	1,172,090.55	152,119	7.70509
1929 .....	1,340,903.71	.....	.....	1,340,903.71	67,045.19	1,273,858.52	157,747	8.0753264
1930 .....	1,426,973.50	.....	.....	1,426,973.50	71,348.68	1,355,624.82	160,846	8.4280915

\* There was a balance of \$124.42 not apportioned.

This table shows the amount of money actually apportioned by the State to the school districts of the various counties. The apportionments made up to and including the year 1923 undoubtedly represented almost exclusively the income from the public school permanent funds and grant. The apportionments made in 1925, 1926, and 1927 include certain receipts from the oil tax and metals mines tax as shown in the table.

Chapter 67 of the Session Laws of 1923 provides for the levy and collection of an oil license tax of 2% of the gross value of the crude oil produced within the state and further provides that the State Treasurer shall annually transfer to the school income fund 25% of such tax.

At the general election in 1924 the people of the State adopted Initiative Measure No. 28 providing for a license tax on metalliferous



mines, and 50% of this tax was to go to the public school income fund. The foregoing table shows how much has been derived from each one of these sources.

Chapter 119 of the 1927 Session Laws provides that such proceeds from these license taxes shall no longer become a portion of the public school income fund, but shall be transferred to a fund to be known as the State Common School Equalization Fund. By the terms of the act the State Board of Education is declared to be the Common School Equalization Board, to administer and distribute the equalization fund as further provided in the act. This distribution is entirely separate from the apportionment of the public school income fund.

As a result the apportionment made in 1928 is more than \$100,000.00 less than the apportionment made in 1927, notwithstanding the fact that the income through this department apportioned in 1928 was by far the largest income ever received during any year in its history.

The apportionment of the income is governed by Section 5 of Article XI of the State Constitution and various statutory provisions. The apportionment is usually made in March of each year, and includes the collections for the last previous calendar year. It is calculated on the basis of the number "of children and youths between the ages of six and twenty-one residing" in each school district.

**TABLE No. XXII**  
**THE 1926 APPORTIONMENT BY COUNTIES**

This table shows the number of census children in each county, and the amount of the apportionment. The rate was 7.61 per child.

County	No. of Census Children	Amount Apportioned
Beaverhead.....	1,817	\$ 13,826.11
Big Horn.....	2,860	21,762.61
Blaine.....	2,352	17,897.09
Broadwater.....	762	5,798.36
Carbon.....	5,187	39,469.46
Carter.....	1,236	9,405.11
Cascade.....	10,587	80,559.68
Chouteau.....	2,503	19,046.09
Custer.....	2,961	22,531.15
Daniels.....	1,855	14,115.27
Dawson.....	2,833	21,557.16
Deer Lodge.....	4,133	31,449.25
Fallon.....	1,464	11,140.03
Fergus.....	5,608	42,672.97
Flathead.....	5,414	41,196.77
Gallatin.....	4,713	35,862.65
Garfield.....	1,325	10,082.34
Glacier.....	1,927	14,663.14
Golden Valley.....	812	6,178.77
Granite.....	821	6,247.25
Hill.....	3,563	27,111.95
Jefferson.....	1,186	9,024.65
Judith Basin.....	1,878	14,290.28
Lake.....	3,104	23,619.28
Lewis and Clark.....	4,804	36,555.09
Liberty.....	683	5,197.17
Lincoln.....	2,577	19,609.18
McCone.....	1,287	9,793.19
Madison.....	1,739	13,232.59
Meagher.....	582	4,428.63
Mineral.....	549	4,177.52
Missoula.....	5,689	43,289.32
Musselshell.....	2,721	20,704.92
Park.....	3,104	23,619.28
Petroleum.....	765	5,821.13
Phillips.....	2,591	19,715.71
Pondera.....	1,995	15,180.57
Powder River.....	1,049	7,982.17
Powell.....	1,447	11,010.67
Prairie.....	1,355	10,310.62
Ravalli.....	2,935	22,333.31
Richland.....	3,304	25,141.14
Roosevelt.....	3,399	25,864.03
Rosebud.....	2,088	15,888.23
Sanders.....	1,554	11,824.87
Sheridan.....	3,236	24,623.71
Silver Bow.....	14,676	111,674.10
Stillwater.....	2,067	15,728.44
Sweet Grass.....	1,189	9,047.47
Teton.....	1,728	13,148.89
Toole.....	1,373	10,447.58
Treasure.....	583	4,436.24
Valley.....	3,215	24,463.92
Wheatland.....	1,295	9,854.06
Wibaux.....	1,096	8,339.81
Yellowstone.....	8,807	67,015.12
Totals.....	156,383	\$1,189,966.04

TABLE No. XXIII  
THE 1927 APPORTIONMENT BY COUNTIES

This table shows the number of census children in each county, and the amount of the apportionment. The rate was 8.3966 per child.

County	No. of Census Children	Amount Apportioned
Beaverhead.....	1,569	\$ 13,174.27
Big Horn.....	2,782	23,359.34
Blaine.....	2,310	19,396.15
Broadwater.....	774	6,498.97
Carbon.....	5,102	42,839.45
Carter.....	1,302	10,932.38
Cascade.....	10,635	89,297.84
Chouteau.....	2,477	20,798.38
Custer.....	2,747	23,065.46
Daniels.....	1,920	16,121.48
Dawson.....	2,765	23,216.60
Deer Lodge.....	4,158	34,913.06
Fallon.....	1,484	12,460.55
Fergus.....	5,457	45,820.24
Flathead.....	5,556	46,651.51
Gallatin.....	4,797	40,278.49
Garfield.....	1,339	11,243.05
Glacier.....	1,837	15,424.55
Golden Valley.....	734	6,163.10
Granite.....	779	6,540.95
Hill.....	3,708	31,134.59
Jefferson.....	1,200	10,075.92
Judith Basin.....	1,708	14,341.39
Lake.....	3,045	25,567.65
Lewis and Clark.....	4,625	38,834.27
Liberty.....	649	5,449.39
Lincoln.....	2,281	19,152.64
McCone.....	1,207	10,134.69
Madison.....	1,748	14,677.26
Meagher.....	549	4,609.74
Mineral.....	519	4,357.84
Missoula.....	5,647	47,415.60
Musselshell.....	2,688	22,570.06
Park.....	3,055	25,651.61
Petroleum.....	690	5,793.66
Phillips.....	2,590	21,747.19
Pondera.....	1,983	16,650.46
Powder River.....	1,068	8,967.57
Powell.....	1,519	12,754.44
Prairie.....	1,342	11,268.24
Ravalli.....	3,043	25,550.85
Richland.....	3,389	28,456.08
Roosevelt.....	3,425	28,758.35
Rosebud.....	2,042	17,145.86
Sanders.....	1,504	12,628.49
Sheridan.....	3,254	27,322.54
Silver Bow.....	13,457	112,993.04
Stillwater.....	2,076	17,431.34
Sweet Grass.....	1,209	10,151.49
Teton.....	1,806	15,164.26
Toole.....	1,456	12,225.45
Treasure.....	557	4,676.91
Valley.....	3,554	29,841.51
Wheatland.....	1,242	10,428.58
Wibaux.....	1,025	8,606.51
Yellowstone.....	9,074	76,190.75
Totals.....	154,458	\$1,296,922.04

**TABLE No. XXIV**  
**THE 1928 APPORTIONMENT BY COUNTIES**

This table shows the number of census children in each county, and the amount of the apportionment. The rate was 7.70509.

County	No. of Census Children	Amount Apportioned
Beaverhead.....	1,469	\$ 11,318.77
Big Horn.....	2,783	21,443.26
Blaine.....	2,294	17,675.48
Broadwater.....	739	5,694.06
Carbon.....	4,747	36,576.06
Carter.....	1,190	9,169.06
Cascade.....	10,486	80,795.55
Chouteau.....	2,440	18,800.42
Custer.....	2,922	22,514.28
Daniels.....	1,850	14,254.42
Dawson.....	2,707	20,857.68
Deer Lodge.....	4,167	32,107.11
Fallon.....	1,419	10,933.52
Fergus.....	5,368	41,360.93
Flathead.....	5,500	42,378.00
Gallatin.....	4,877	37,577.72
Garfield.....	1,253	9,654.48
Glacier.....	1,700	13,098.65
Golden Valley.....	695	5,355.04
Granite.....	787	6,063.90
Hill.....	3,630	27,969.48
Jefferson.....	1,153	8,883.97
Judith Basin.....	1,694	13,052.42
Lake.....	3,047	23,477.41
Lewis and Clark.....	4,517	34,803.89
Liberty.....	647	4,985.19
Lincoln.....	2,140	16,488.89
McCone.....	1,196	9,215.29
Madison.....	1,684	12,975.37
Meagher.....	563	4,337.97
Mineral.....	492	3,790.90
Missoula.....	5,553	42,786.36
Musselshell.....	2,566	19,771.26
Park.....	2,971	22,891.83
Petroleum.....	645	4,969.78
Phillips.....	2,547	19,624.86
Pondera.....	1,852	14,269.83
Powder River.....	1,062	8,182.81
Powell.....	1,458	11,234.02
Prairie.....	1,265	9,746.93
Ravalli.....	3,033	23,369.54
Richland.....	3,157	24,324.97
Roosevelt.....	3,415	26,312.89
Rosebud.....	1,970	15,179.03
Sanders.....	1,464	11,280.25
Sheridan.....	3,409	26,266.66
Silver Bow.....	13,774	106,129.91
Stillwater.....	2,107	16,234.63
Sweet Grass.....	1,171	9,022.66
Teton.....	1,863	14,354.58
Toole.....	1,588	12,235.68
Treasure.....	484	3,729.26
Valley.....	3,603	27,761.44
Wheatland.....	1,159	8,930.20
Wibaux.....	952	7,335.24
Yellowstone.....	8,895	68,536.76
Totals.....	152,119	\$1,172,090.55

**TABLE No. XXV**  
**THE 1929 APPORTIONMENT BY COUNTIES**

This table shows the number of census children in each county, and the amount of the apportionment. The rate was \$8.0753264 per child.

County	No. of Census Children	Amount Apportioned
Beaverhead.....	1,559	\$ 12,589.43
Big Horn.....	2,836	22,901.63
Blaine.....	2,479	20,018.73
Broadwater.....	787	6,355.28
Carbon.....	4,642	37,485.67
Carter.....	1,189	9,601.56
Cascade.....	11,089	89,547.29
Chouteau.....	2,570	20,753.59
Custer.....	3,048	24,613.59
Daniels.....	1,968	15,892.24
Dawson.....	2,861	23,103.51
Deer Lodge.....	4,425	35,733.32
Fallon.....	1,472	11,886.88
Fergus.....	5,350	43,203.00
Flathead.....	5,691	45,956.68
Gallatin.....	4,957	40,029.39
Garfield.....	1,300	10,497.92
Glacier.....	1,852	14,955.50
Golden Valley.....	758	6,121.10
Granite.....	822	6,637.92
Hill.....	3,870	31,251.51
Jefferson.....	1,137	9,181.65
Judith Basin.....	1,697	13,703.83
Lake.....	3,287	26,543.60
Lewis and Clark.....	4,569	36,896.17
Liberty.....	700	5,652.73
Lincoln.....	2,074	16,748.23
McCone.....	1,328	10,724.03
Madison.....	1,722	13,905.71
Meagher.....	570	4,602.94
Mineral.....	481	3,884.23
Missoula.....	5,822	47,014.55
Musselshell.....	2,687	21,698.40
Park.....	3,034	24,500.54
Petroleum.....	650	5,248.96
Phillips.....	2,646	21,367.31
Pondera.....	2,189	17,676.89
Powder River.....	1,133	9,149.35
Powell.....	1,492	12,048.39
Prairie.....	1,334	10,772.49
Ravalli.....	3,095	24,993.14
Richland.....	3,253	26,269.04
Roosevelt.....	3,702	29,894.86
Rosebud.....	2,141	17,289.27
Sanders.....	1,439	11,620.39
Sheridan.....	3,452	27,876.03
Silver Bow.....	14,262	115,170.31
Stillwater.....	2,036	16,441.37
Sweet Grass.....	1,180	9,528.89
Teton.....	1,979	15,981.07
Toole.....	1,615	13,041.65
Treasure.....	481	3,884.23
Valley.....	3,868	31,235.36
Wheatland.....	1,151	9,294.70
Wibaux.....	952	7,687.71
Yellowstone.....	9,064	73,194.76
Totals.....	157,747	\$1,273,858.52



**TABLE NO. XXVI**  
**THE 1930 APPORTIONMENT BY COUNTIES**

This table shows the number of census children in each county, and the amount of apportionment. The rate was \$8.4280915.

County	No. of Census Children	Amount Apportioned
Beaverhead.....	1,520	\$ 12,810.70
Big Horn.....	2,763	23,286.82
Blaine.....	2,623	22,106.88
Broadwater.....	783	6,599.20
Carbon.....	4,422	37,269.02
Carter.....	1,244	10,484.55
Cascade.....	11,760	99,114.35
Chouteau.....	2,611	22,005.75
Custer.....	3,218	27,121.60
Daniels.....	1,982	16,704.48
Dawson.....	3,034	25,570.83
Deer Lodge.....	4,525	38,137.11
Fallon.....	1,526	12,861.27
Fergus.....	5,162	43,505.81
Flathead.....	5,883	49,582.46
Gallatin.....	5,160	43,488.95
Garfield.....	1,355	11,420.06
Glacier.....	1,882	15,861.67
Golden Valley.....	732	6,169.36
Granite.....	804	6,776.18
Hill.....	4,063	34,243.34
Jefferson.....	1,110	9,355.18
Judith Basin.....	1,660	13,990.63
Lake.....	3,411	28,748.22
Lewis and Clark.....	4,617	38,912.50
Liberty.....	746	6,287.36
Lincoln.....	2,116	17,833.84
McCone.....	1,499	12,633.70
Madison.....	1,672	14,091.77
Meagher.....	554	4,669.16
Mineral.....	446	3,758.93
Missoula.....	5,865	49,430.76
Musselshell.....	2,559	21,567.48
Park.....	2,948	24,846.01
Petroleum.....	624	5,259.13
Phillips.....	2,693	22,696.85
Pondera.....	2,171	18,297.38
Powder River.....	1,144	9,641.74
Powell.....	1,548	13,046.68
Prairie.....	1,326	11,175.65
Ravalli.....	3,072	25,891.10
Richland.....	3,280	27,644.14
Roosevelt.....	3,925	33,080.26
Rosebud.....	2,170	18,288.95
Sanders.....	1,499	12,633.70
Sheridan.....	3,451	29,085.34
Silver Bow.....	14,858	125,224.58
Stillwater.....	1,989	16,763.47
Sweet Grass.....	1,175	9,903.00
Teton.....	1,990	16,771.90
Toole.....	1,662	14,007.49
Treasure.....	503	4,239.33
Valley.....	3,991	33,636.51
Wheatland.....	1,169	9,852.44
Wibaux.....	964	8,124.68
Yellowstone.....	9,387	79,114.57
Totals.....	160,846	\$1,355,624.82

This is the largest apportionment ever made of earnings from these sources.

## REPORT ON POWER SITES ON STATE LANDS IN WESTERN MONTANA

This report was originally made in the form of a letter to the Hon. J. E. Erickson, Governor and Ex-Officio President of the State Board of Land Commissioners, and with his approval it was placed before the Board at its meeting on September 16th, 1930. The Board heartily approved of the action taken in obtaining clear title to the power and reservoir sites on State lands, and directed that the report should be incorporated in the minutes of the meeting. It is embodied in this final report in order to make it easily available for anyone interested. The report itself is as follows:

"In order that the information may be made a matter of record for the future use and guidance of this department, allow me to report that I have made the discovery that the State of Montana is the owner of parts of three valuable power and reservoir sites on the Flathead river in Lake county and Sanders county, and is the sole owner of a number of smaller power sites in western Montana. The power sites and reservoir sites on the Flathead river do not include the large power site in Sec. 12, Twp. 22N, Range 21W, commonly designated as Power Site No. 1, and now under license or lease for development. The power sites in question are parts of Sections 36 in Townships 20, 21 and 22 North of Range 22 West.

### Reserved by the United States

These three power and reservoir sites and many others on State lands were reserved by the United States and claimed as Government property. In fact, two separate reservations were made embracing these power sites and others.

Under date of September 10, 1913, the President of the United States approved Power Site Reservation No. 397, made by the Geological Survey embracing the three power sites in the sections above enumerated and many others.

When the Federal Power Commission came into being through an act of Congress approved June 10, 1920, this body proceeded to include the lands above described and others in Power Project No. 5 for which the Rocky Mountain Power Company had made application. The order is dated March 14, 1921.

Thus a number of tracts of State lands having value for power site and reservoir purposes were claimed by the United States and set aside by some of the highest officers of the Government.

### How the Error Occurred

No explanation has been offered to show why or how lands to which title had already passed to the State of Montana were included in these reservations, but it is evident that it was simply due to error. Apparently the clerks having charge of the detail work failed to discover that title to Sections 16 and 36 within these reservations or withdrawals had already vested in the State of Montana as part of its school land grant.

### Patents Not Granted to Sections 16 and 36

It is a deplorable fact resulting in much trouble that the United States Government does not issue patent or other evidence of title to the states for Sections 16 and 36. In the case of Montana, North Dakota, South Dakota and Washington, these sections were granted to the state

for school purposes through the so-called "Enabling Act" admitting these states into the Union and approved February 22, 1889; but under the regulations of the Department of the Interior and the decisions of the courts, actual title to a particular section does not pass to the State until the survey thereof is approved by the Commissioner of the General Land Office. The practice has also developed and found sanction in Federal statutes and in court decisions of permitting Sections 16 and 36 to be taken as homesteads, set aside for forest reserves and disposed of in various other ways at any time before the approval of the survey.

#### Accidental Discovery of Government's Claim to Power Sites

The Government does not notify the State when it takes these lands, and it was only accidentally that it was discovered that the United States claimed power site and reservoir site reservations in the lands under discussion. B. F. Johnson of Ronan, Montana held a grazing lease from the State on part of Section 36, Twp. 21N, Range 22W. The Indian Agency at Dixon, Montana, had issued a grazing permit to him on part of the same land, and naturally he objected to paying rentals on the same land both to the United States and to the State of Montana. This led to a close scrutiny of the State's title, and also led to the discovery of Power Site Reserve No. 397 and Power Project No. 5 embracing in all nine separate tracts, all of which are claimed by the State as the title had passed to the State before the date of reservation.

#### Claims Presented to General Land Office

Letters setting forth the claim of the State were written to Charles C. Moore, Commissioner of the General Land Office and to Joseph M. Dixon, First Assistant Secretary of the Interior. The general claim on behalf of the State was promptly admitted through a memorandum prepared by the Commissioner of the General Land Office to the First Assistant Secretary of the Interior and through a letter written to this department by the Acting Assistant Commissioner. This memorandum and the letter are as follows:

#### GENERAL LAND OFFICE

Washington, April 22, 1930.

#### Memorandum for the First Assistant Secretary

"There is submitted in accordance with your instructions, the following memorandum, in connection with the letter of April 14, 1930, from I. M. Brandjord, Land Commissioner of the State of Montana, referred here by the Department.

The surveys of Sec. 36, T. 20 N., R. 22 W., Sec. 36, T. 21 N., R. 22 W., and Sec. 36, T. 22 N., R. 22 W., Montana were accepted by this office on February 20, 1906, and as the lands were not then withdrawn or reserved for any purpose, other than for school purposes, title vested in the State at that time, under the act of April 23, 1904 (33 Stat. 302). See 38 L. D. 341.

Certain lands in said Secs. 36 were withdrawn and included in power-site reserve No. 397, by Executive order of September 10, 1913, and reserved June 26, 1921, under the act of June 10, 1920, and included in power project No. 5. However, said withdrawal and reservation are subject to prior valid existing rights and do not in any way affect the State's right, title, and interest in and to such lands.

(Signed) C. C. MOORE,  
Commissioner."

## Letter from the Assistant Commissioner

## GENERAL LAND OFFICE

Washington, April 30, 1930.

Refer to  
1375511 "F" CBC

## Information

"Mr. I. M. Brandjord,  
Commissioner of State Lands,  
Helena, Montana.

My dear Sir:

I am in receipt of your letter dated April 11, 1930, concerning Sec. 36, T. 20 N., R. 22 W., Sec. 36, T. 21 N., R. 22 W., and Sec. 36, T. 22 N., R. 22 W., Montana.

By section 8, act of April 23, 1904 (33 Stat. 302), Secs. 16 and 36, in every township in the former Flathead Indian Reservation, were granted to the State of Montana for school purposes; the surveys of the lands described above were accepted by this office on February 20, 1906; and title immediately vested in the State, as the lands were not then withdrawn or reserved for any purpose, other than for school purposes. See 38 L. D. 341. The power-site withdrawals were made subject to prior valid existing rights and do not in any way affect the State's title.

Very respectfully,

(Signed) D. K. PARROTT,

4-25-ml

Acting Assistant Commissioner."

These communications admit the validity of the claim of the State in full as to the three sections enumerated therein; but as the said sections still remain as part of Power Site Reserve No. 397 and as part of Power Project No. 5, and as additional tracts of State lands were claimed under these reservations, requests were made upon the Department of the Interior to have all of the tracts to which the State held full title formally eliminated so that no question and no complication as to the State's title might arise. As a result of this request the three sections having the most valuable power or reservoir sites have been formally eliminated from Power Site Reserve No. 397 through the following executive order:

## "EXECUTIVE ORDER

POWER-SITE RESTORATION NO. 440  
MONTANA

So much of the order of September 10, 1913, creating Power-Site Reserve No. 397, as affects the lands hereinafter described is hereby revoked:

## Montana Meridian

- T. 20 N., R. 22 W., Sec. 36, lots 1, 2, 3, SE $\frac{1}{4}$  of NE $\frac{1}{4}$ , SE $\frac{1}{4}$  of SW $\frac{1}{4}$ , NW $\frac{1}{4}$  of SE $\frac{1}{4}$ ;  
T. 21 N., R. 22 W., Sec. 36, lots 1 to 10, inclusive, SW $\frac{1}{4}$  of NE $\frac{1}{4}$ , E $\frac{1}{2}$  of SW $\frac{1}{4}$ ;  
T. 22 N., R. 22 W., Sec. 36, lots 1 to 10, inclusive, W $\frac{1}{2}$  of NE $\frac{1}{4}$ , SE $\frac{1}{4}$  of NE $\frac{1}{4}$ , N $\frac{1}{2}$  of SE $\frac{1}{4}$ .

HERBERT HOOVER."

THE WHITE HOUSE,  
June 4, 1930.

This order has now been recorded in the offices of the County Clerk and Recorder of Lake County and of Sanders County.



### Restoration Not Yet Complete

So far these three sections have not been formally eliminated from Power Project No. 5 and there are six other parcels of State land which have not been eliminated from either of the two withdrawals, but the requests for such elimination are now under consideration by the various divisions of the Department of the Interior and the case will not be allowed to rest until all the tracts to which the State holds clear title have been fully restored: Joseph M. Dixon, First Assistant Secretary of the Interior is backing the claims of the State and the results obtained are largely due to his influence.

Following is a complete list of the tracts under discussion:

#### List of State Lands Reserved by the United States for Power Development

No.	Subdivision	Sec.	Twp.	Range	Power Site Reserve No.	Power Project No.
1.	Lots 1, 2, 3, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ . . . .	36	20N	22W	397	5
2.	Lots 1 to 10, inclusive, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ . . . . .	36	21N	22W	397	5
3.	Lots 1 to 10, inclusive, NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ . . . . .	36	22N	22W	397*	5
4.	N $\frac{1}{2}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ . . .	36	16N	18W	397	Not Included
5.	N $\frac{1}{2}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ . .	36	17N	18W	397	Not Included
6.	S $\frac{1}{2}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ . .	36	18N	19W	397	Not Included
7.	SW $\frac{1}{4}$ SW $\frac{1}{4}$ . . . .	16	20N	21W	397	5
8.	S $\frac{1}{2}$ SE $\frac{1}{4}$ . . . . .	16	21N	19W	397	Not Included
9.	NE $\frac{1}{4}$ NE $\frac{1}{4}$ , Lot 1	16	23N	20W	Not Included	5

\* No. 397 does not include the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of the said section.

#### General Information as to Location

Numbers 1, 2 and 3 are all located in the Flathead River between Dam Site No. 1, now under license, and Dam Site No. 4.

Number 4. On South Fork of the Jocko River, about 16 miles north-east of Bonner in Missoula County.

Number 5. On South Fork of the Jocko River, about 22 miles north-east of Bonner in the extreme southeast corner of Lake County.

Number 6. On Dry Creek about 7 miles southeast of St. Ignatius.

Number 7. On east side of Flathead River but does not touch the river. (Probably reserved on account of overflow resulting from dam.)

Number 8. On North Fork of Crow Creek, 4 or 5 miles northeast of Ronan.

Number 9. Located on Flathead Lake some 5 miles northeast of Polson and 6 or 7 miles southeast of Big Arm. (Probably reserved on account of overflow resulting from dam.)

#### Possibilities of Power Development in the Flathead River

As to the three sections of State lands located on the Flathead River, it should be clearly understood that not any of these sections constitutes a power or reservoir site by itself; each of them is a part of a larger power and reservoir site and can only be utilized to the best advantage in connection with the entire site of which it is a part.



In June, 1913, Mr. E. C. LaRue, Hydrographic Engineer of the Geological Survey, made a "Report Showing Power and Reservoir Site Possibilities, Flathead Indian Reservation, Montana" and the following information on this subject is taken from his report:

The entire Flathead River from the outlet of Flathead Lake to the south part of Twp. 19N, Range 21W, a location about two miles above the mouth of Mission Creek, can be utilized for power development. The total length of the river between these two points is just about 46 miles and he suggests the utilization and development of this water power through the construction of five separate dams. A license for developing the power at Dam Site No. 1 has already been issued to the Rocky Mountain Power Company and development work has commenced. Dam Site No. 2 is above the State owned lands. Sec. 36, Twp. 22N, Range 22W is immediately above the section where it is proposed to locate Dam No. 3. Sec. 36, Twp. 21N, Range 22W and Sec. 36, Twp. 20N, Range 22W are between the proposed Dam Site No. 3 and proposed Dam Site No. 4. The last mentioned section is immediately above the section in which it is proposed to locate Dam No. 4. These three sections are natural and inseparable portions of the lands needed for power development at these two locations. According to the aforesaid report, the location and estimated capacity of the power developments at these two sites are as follows:

Dam Site No.	Location	Distance from Site Next Above	Available Head	Estimated Power Capacity
3.	SE $\frac{1}{4}$ , 1-21N-22W	8 miles	24 ft.	19,200 Elec. H.P.
4.	S $\frac{1}{2}$ , 1-19N-22W	24 miles	88 ft.	70,400 Elec. H.P.
Totals.....		32 miles	112 ft.	89,600 Elec. H.P.

With the regulation works proposed to be established at the outlet of Flathead Lake it is estimated that this river will furnish a mean flow of 10,000 second-feet. It will be noted from the foregoing figures that the total distance of the river to be developed in connection with these two dam sites furnishing an estimated power of 89,600 electrical horse power is 32 miles. Of this distance the three aforesaid school sections furnish approximately  $3\frac{1}{4}$  miles or a little over 10% of the total distance.

#### The Other Power Sites

It will be noted from the foregoing list of State lands reserved by the United States for power development that in addition to the three sections on Flathead River there are four small power sites in various creeks running into the Flathead River which have also been reserved. As yet no figures are available showing the capacity of these smaller reservations but it appears that each one constitutes a very small independent project. The fact that they have been withdrawn conclusively shows that they are regarded as having some value. The lands on which they are located should not be sold as the future development of western Montana and the increased demand for electrical energy are likely to make these small power sites far more valuable in the future than at the present time.

#### Utilization of the Power Sites on the Flathead River

It should be borne in mind that the State's power and reservoir sites on the Flathead River are inseparable portions of the Government reservoir and power sites. The sites owned by the State and the sites owned by the Federal Government must be developed jointly when demand arises for their utilization. It is at least possible that some kind

of agreement could be entered into between the State and the United States under which the State would share in the annual rentals.

### Legal Features

There does not appear to be anything in the Enabling Act or in the Constitution of the State against this proposed plan; on the contrary, it appears to be in full accord with the spirit and intent of these basic acts. Section 11 of the Enabling Act, which specifically deals with the disposition of the lands granted to our State for educational purposes, has been amended by act of Congress approved August 11, 1921, and under this amendment the State may "upon such terms as it may prescribe, grant such easements or rights in such lands as may be acquired in, to, or over the lands of private properties through proceedings in eminent domain." This amendment appears to be directly applicable to the case under discussion and the amendment has been carried into effect through our statutes; Sections 56 to 63 of Chapter 60 of the 1927 Session Laws deals with the granting of easements in State lands; Section 62 appears to be directly applicable in cases of this kind.

It is needless to say, however, that the legal questions involved should be carefully studied so that amendments may be made to our statutes if it should be necessary to meet these new problems.

### These Valuable Assets Should Be Perpetually Preserved

The flow of water is almost perpetual in its nature, and as these power sites form part of the land grants made to the State of Montana for the benefit of its institutions and its people, it seems highly proper and fitting that they should be permanently preserved. It is believed that this can be accomplished through some plan along the lines above suggested. In this way these lands and power sites would earn revenues for the schools of Montana and benefit all the people of the State as long as the waters continue to flow through the Flathead River."

## PRESIDENT HOOVER'S PROPOSALS RELATING TO THE PUBLIC DOMAIN AND THE FUTURE OF RECLAMATION

At a conference of governors and representatives from the Western States held at Salt Lake City on August 26th and 27th, 1929, the suggestion was made on behalf of President Hoover that the surface rights in the unappropriated and unreserved public lands within the Western States might be granted to the individual states to be administered and disposed of for the benefit of the public schools. Important changes were also suggested with regard to the future of Federal Reclamation. Each of the governors of the eleven Western States was asked to nominate two or three men from whom the President could appoint a suitable commission to study the questions exhaustively and then make their recommendations to him for his guidance in recommending legislation.

The message from the President was brought to the conference by the Hon. Jos. M. Dixon, former Governor of this State, and now First Assistant Secretary of the Interior, who further explained and amplified the suggestions of the President.

Governor J. E. Erickson nominated three citizens of the state for the President's consideration, one of whom was I. M. Brandjord, who

received the appointment. The Commission is composed of the following members:

James R. Garfield, Chairman, former Secretary of the Interior,  
Cleveland, Ohio.

Dr. Hugh A. Brown, Executive Secretary, Washington, D. C.

Ray Lyman Wilbur, Secretary of the Interior, ex-officio member.

Arthur M. Hyde, Secretary of Agriculture, ex-officio member.

**Members at large:**

Mary Roberts Rinehart, Author, Washington, D. C.

Gardner Cowles, Publisher, Des Moines, Iowa.

James P. Goodrich, former Governor of Indiana, Winchester, Indiana.

Col. W. B. Greeley, former U. S. Forester, Seattle, Washington.

George Horace Lorimer of the Curtis Publishing Co., Philadelphia, Pa.

Dr. Elwood Mead, Commissioner, Bureau of Reclamation, Washington, D. C.

Huntley N. Spaulding, former Governor of New Hampshire, Rochester, N. H.

Wallace Townsend, Attorney, Little Rock, Arkansas.

Francis C. Wilson, Interstate River Commissioner for New Mexico,  
Santa Fe, New Mexico.

**Members representing the public land states:**

Arizona—Rudolph Kuchler, President, State Tax Payers Association,  
Phoenix.

California—Dr. Elwood Mead, Commissioner, Bureau of Reclamation,  
Washington, D. C.

Colorado—Charles J. Moynihan, Land Attorney, Montrose.

Idaho—I. H. Nash, State Land Commissioner, Boise.

Montana—I. M. Brandjord, Commissioner of State Lands and Investments, Helena.

Nevada—George W. Malone, State Engineer, Carson City.

New Mexico—H. O. Bursum, former U. S. Senator, Socorro.

Oregon—E. C. Van Petten, Lumberman, Ontario.

Utah—Prof. Wm. Peterson, State Agricultural College, Logan.

Washington—R. K. Tiffany, Hydraulic Engineer, Olympia.

Wyoming—Perry W. Jenkins, President, State Senate, Big Piney.

The first meeting of the Commission was held in Washington, D. C., on November 23rd to 25th, 1929. A second meeting was held at the same place on June 2nd to 5th, 1930. At this meeting many of the members submitted suggestions or recommendations relating to the problems under consideration. As the questions relating to the public domain and the future of reclamation are of interest to all of the people of the state, it seems proper to embody my suggestions, as representative of the State of Montana, in this biennial report. They contain considerable information and also definite recommendations. I am anxious to receive additional information, ideas, advice and criticism from any citizen of the state.

### Views Modified

Since writing these suggestions, I have made some first hand study of the public domain in nine of the public land states, together with other members of the Commission. I have read considerable on the subject, given it a good deal of thought, and I have modified my views in one important particular: I now feel strongly convinced that ultimately our State should be the full and sole owner not only of the surface rights in what is now the public domain, but also of all oil and other minerals therein. Both the surface rights and all the minerals therein should, therefore, be granted to the states; but as the Federal Government believes that national control of the oil resources in the Western States for some time to come is of importance to the entire nation, I would be willing to have incorporated in the granting act a provision retaining the administration of oil and other minerals in the public domain in the Government of the United States for a fixed term of years, royalties and other income from such minerals arising during this term to be divided about as follows: 10% to the United States for administration, 40% to the State in which the minerals are found, and 50% to the U. S. Reclamation Fund. Under present statutes, 10% goes to the United States, 37½% to the States and 52½% to the U. S. Reclamation Fund. Upon the expiration of the period agreed upon, the State would become the absolute owner of all the minerals and would assume full control; no royalties would be paid to the United States or to the U. S. Reclamation Fund.

Among the vast mineral resources of this State, the tremendous coal deposits are not the least important. It is estimated that there is over four hundred billion tons of coal within the boundaries of our state. The time will undoubtedly come when these vast resources will be utilized; and I am particularly anxious that this enormous wealth shall become the sole property of the State of Montana and its people.

Special attention is called to the letter from Governor J. E. Erickson accompanying my suggestions; he strongly advocates that the oil resources and other minerals belong to the states and should be subject to their control.

The report embodying my suggestions to the Commission is as follows:

#### **SOME TENTATIVE SUGGESTIONS FOR THE DISPOSITION OF THE PUBLIC DOMAIN AND THE FUTURE OF FEDERAL RECLAMATION**

Made in Response to the Questionnaire Prepared by the  
Hon. James R. Garfield, and Adopted by the Commission  
on the Public Domain and Reclamation.

By I. M. BRANDJORD  
Member of the Commission from Montana

#### **Public Land Statistical Table**

Under date of December 18, 1929, the General Land Office issued a "Public Land Statistical Table" giving comprehensive information in



regard to the area and status of the public lands throughout the United States, showing the total area of each state containing public lands, the areas of unappropriated and unreserved land and the areas of the various reservations and withdrawals.

This information is absolutely necessary as the foundation for an intelligent consideration of the disposition of the public domain; and the following figures relating to the State of Montana are therefore copied from this statistical table and other official sources for convenient reference in this discussion.

Total Area of Montana, land and water .....	Acres		94,078,080
Lands to Which the Title Remains in the United States:			
1. Vacant, Unappropriated and Unreserved .....			6,900,144
2. Pending Entries, Proof not due June 30, 1929 .....			3,026,665
3. Reservations:			
a. National Parks:	Acres	Acres	
Yellowstone .....	156,800		
Glacier .....	981,760	1,138,560	
b. National Forests (net area) .....		16,170,658	
c. Indian Reservations:			
Allotted Lands .....	5,759,300		
Unallotted Lands .....	770,135	6,529,435	
d. Game and Bird Reserves .....		81,691	
Total Reservations .....			23,920,344
4. Withdrawals:			
a. Carey Act Lands .....			29,212
d. Reclamation Projects:			
Name of Project	Irrigable Area Upon Completion of Projects	Additional Lands Withdrawn	
Huntley .....	32,507	16,793	
Milk River .....	143,288	41,652	
Sun River .....	106,842	90,778	
Lower Yellowstone .....	39,028	18,612	
Marias River .....	?	54,400	
Totals.....	321,665	222,235	
Total Withdrawals for Reclamation .....			543,900
c. Coal Classifications .....			8,563,862
(Area Withdrawn, 7,863,941 acres)			
d. Oil Withdrawals .....			1,350,426
e. Phosphate Lands .....			279,944
f. Power Sites .....			209,208
g. Reservoir Sites .....			9,080
h. Public Water for Stock .....			8,416
i. Stock Driveways .....			224,828
j. Miscellaneous .....			244,724
Mathematical Total of all Withdrawals .....			11,463,600
Total Area of all Lands to which the U. S. Holds Title in Montana.....			
			45,310,753

It will be noted that according to the foregoing figures, the title to nearly one half of the entire State of Montana remains in the United States; but it should be borne in mind that many of the withdrawals over-



lap each other and in some cases also include large areas of lands to which title has passed from the Government, so that the actual total of all withdrawals is much smaller than the sum of the various withdrawals as shown in the table.

### Unsurveyed Lands

Of the lands in Montana, 78,320 acres remain unsurveyed. The total unsurveyed area for all the states on June 30, 1929, was 52,659,958 acres (Circular No. 1197—General Land Office).

### What Disposition Should Be Made of the Public Lands?

Public property should be managed solely for the public good. These lands should be so disposed of and administered as to serve all classes of people in the fullest attainable measure, aid in the development of the states where the lands are located, and at the same time contribute to the national welfare.

President Hoover has made the liberal and far reaching proposition that at least the surface rights in these lands should be granted to the individual states for the perpetual support and maintenance of the public schools.

In the study of this magnificent offer it has developed that this proposed land grant might have the effect of curtailing Federal Reclamation, road building and other government activities. It is needless to say that the State of Montana would not care to accept these lands at the cost of curtailment in these great constructive activities now carried on by the Federal Government. If these lands are granted to the states, such amendments should be made to existing statutes that the continuation of these activities in undiminished measure is assured for a long time to come.

The Future of Federal Reclamation is discussed later on in this paper.

Assuming that Federal Reclamation, road building and similar activities can be fully safe guarded, the people of Montana that have given some thought to the subject appear to be in general favor of accepting the grant; but there is little enthusiasm about it.

I have endeavored to bring the subject to the attention of the people through a great number of letters, through the press and at public meetings. With comparatively few exceptions the answers received have been favorable to the proposition. On February 24th and 25th, 1930, a meeting, commonly known as the Montana Development Congress, was held at Helena, attended by representatives from the entire State and many representatives from other states, and at this meeting I had the opportunity of making a somewhat comprehensive statement of the public land problem and the offer to turn the lands over to the states. As this was the first meeting for the formation of a permanent organization, it was not thought wise to make an out and out endorsement of

the plan, but the resolutions adopted contain the following friendly reference to the subject.

"That full cooperation should be extended to the federal commission on conservation and administration of the public domain recently appointed by the President of the United States and to I. M. Brandjord, Montana's representative on that commission, in the assembling of available facts and opinions expressed by various groups or individuals of the State, so that a comprehensive program may be adopted that shall operate to the best interest of Montana and to the nation as a whole."

(The same resolutions contain certain recommendations relating to Federal Reclamation which will be cited when that subject is discussed in this paper.)

The Montana Wool Growers Association, at a meeting held at Helena on January 23rd and 24th, 1930, passed resolutions unequivocally endorsing the plan, reading as follows:

"WHEREAS, the President of the United States has suggested that the remaining public domain be ceded to the various states,

NOW, THEREFORE, BE IT RESOLVED, that we favor the acceptance of the cession of the public domain to the various public land states and urge that states accepting this offer do so as speedily as possible.

BE IT FURTHER RESOLVED, that we favor giving each state the option of accepting or rejecting the land within its boundaries regardless of the action of any other state."

Favorable resolutions have also been passed by other organizations.

At the conclusion of this paper will be found a letter from the Hon. J. E. Erickson, the Governor of Montana, discussing the subject in its general aspects. His thorough knowledge of the State and its varied problems, his sincere interest in all its people and unerring judgment make this letter a document of the highest value.

The sentiment throughout Montana appears to be such that I feel justified in offering specific suggestions for carrying the plan into effect.

### 1. The Public Survey

Expedite the Public Survey. There are numerous claims against the public domain that cannot be fully determined until the land in question is surveyed, and it is obvious that all such claims should be passed upon before the lands are granted to the states or otherwise permanently disposed of. The statistical table does not undertake to cover these outstanding claims but they are carefully and comprehensively discussed in a letter from the Commissioner of the General Land Office to the Secretary of the Interior, dated July 24, 1929.

### 2. Rearrange Boundaries of National Forests

In recognition of the urgent, vital and perpetual need of the West for forest preservation, forest culture and water conservation, there

should be granted to the President through appropriate legislation, adequate power to make additions to the National Forests from the public domain. The President was deprived of this power by the Act of Congress approved June 25, 1910 (36 Stat. 847).

Lands which are chiefly valuable for grazing should not be included; on the contrary, areas now within National Forests which are more valuable for grazing than for other purposes should be eliminated.

Where public lands fit in better with adjoining State Forests than with National Forests, they should be granted to the State and administered as part of the State Forests.

All available areas of the public domain which are more valuable as water sheds or for timber production than for other purposes, should be included in National or State Forests, wherever they fit in the best. This policy will aid the individual citizen, increase the productive capacity of the region where the land is located and add to the wealth of state and nation.

### 3. Make Grant to States

Grant to each of the public land states, through a general act, the remainder of the unreserved public lands, except lands which are likely to be suitable for reclamation, afforestation, recreational purposes and other public uses.

In addition to this, the other classes of land to which the United States still holds title should be considered in the grant. It will be noted that they embrace millions of acres in each one of the public land states. Let us take them up in the order in which they appear in the statistical table.

#### Unperfected Entries

According to the table there is more than three million acres under unperfected entries in our State. Undoubtedly a considerable portion of this vast area will be restored to the public domain through failure of the entrymen to perfect proof of their rights. All such lands should be specifically covered by the act so as to prevent future misunderstanding and confusion.

#### National Forests and Indian Reservations

There is no disposition on the part of the people of Montana to deprive the Federal Government of the administration of National Forests and Indian Reservations. As already shown, more than 5/6 of the Indian Reservations have already been allotted to individual Indians, and as these allotments are gradually patented, the lands will become subject to taxation and the full jurisdiction of the State.

#### Game and Bird Reserves

As shown by the table, these include more than 81,000 acres, and the question naturally arises if some of these lands could not be used for grazing purposes in addition to serving as Game and Bird Reserves.

### Carey Act Withdrawals

The Carey Act lands embracing more than 29,000 acres should be conditionally given to the State; the granting act should be so formulated that if the State does not make water available for the land now segregated prior to a certain date, the land will then pass to the State together with the unappropriated and unreserved lands, unless the Federal Government itself should choose to reclaim the lands.

### Reclamation Withdrawals

As shown in the table on Page 2 hereof, the reclamation withdrawals include some 222,000 acres for which it is not expected that water can be made available. The act should provide that when it has been definitely determined what lands can be irrigated, the entire surplus should pass to the State.

### Coal Classifications

The Coal Classifications embrace more than eight and one-half million acres, being between 9% and 10% of the area of the entire State. So far, I have been unable to ascertain definitely whether these classifications include both the coal and the surface or only the coal. If the surface is also withdrawn, the vast area that it represents is evidently not included in the lands classified as "vacant, unappropriated and unreserved."

This tremendously important item must be definitely cleared up and carefully covered by the granting act.

### Oil Withdrawals

The oil withdrawals in Montana include only about 1,350,000 acres and it appears that the bulk of these are Indian lands, subject to the control of the Bureau of Indian Affairs.

In order that the use of the surface of the remaining oil lands in Montana may be subject to regulation and supervision, it might be well to grant the lands to the State, reserving the oil deposits therein. As long as the State in which the oil is produced receives 37½% of the oil royalties and 52½% is paid into the Federal Reclamation Fund, it is doubtful if it would be of lasting benefit to the states to have these oil rights granted to them. Believing that Federal Reclamation is one of the great agencies for building the west, I am anxious to provide perpetual revenues for the maintenance and increase of the Reclamation Fund.

### Phosphate Withdrawals

As shown by the table, the phosphate withdrawals aggregate nearly 300,000 acres. Like so many other minerals, phosphate occurs in veins or leads and in all probability the actual area of these veins or leads and the land that would be required for mining the same will embrace only a fraction of the area withdrawn. The lands not containing any of these veins or leads or lands required for mining the same, should be granted to the State.

Clearcut legislation should be enacted providing for the division of the rentals and royalties arising from phosphate and potash leases between the State in which the deposits are located and the Federal Reclamation Fund. Under the Act of October 2, 1917 (40 Stat. 300) all moneys received from rentals and royalties on potassium leases are to be paid into the Reclamation Fund, but upon the repayment to the Reclamation Fund of any such money, 50% thereof shall be paid to the State where the royalties originated. This appears to be an exceedingly cumbersome provision.

### Power Site Withdrawals

These exceed 200,000 acres and it will unquestionably take a long time before all of the sites are needed; then it is likely to develop that only a part of the land is required. Closer examination of these withdrawals will no doubt show that large portions may at once be granted to the State outright, and the remainder should be granted with proper reservations for the future use of the land for power development.

### Lands Withdrawn for Stock-Water and Driveways

These lands exceed 230,000 acres in our State, and it is essential that they be granted to the State so that they may be administered in conjunction with the other lands dependent upon this water supply and these driveways.

### Miscellaneous Withdrawals

The disposition of the Miscellaneous Withdrawals embracing nearly one-fourth of a million acres for the State of Montana will, of course, depend upon the need and purpose of each individual withdrawal.

### All Lands to Be Conveyed as Soon as Available

The general granting act should be so formulated that when the necessity for the withdrawal or reservation has ceased, the land will be conveyed to the states without further legislation. The Secretary of the Interior should be vested with full authority to determine when the necessity for each individual withdrawal has ceased, wholly or in part, and then to issue patents conveying the land. The work of elimination should be expedited as much as possible.

### Minerals Should Go With the Surface

The grant should include not the surface rights alone but all minerals in the land with the exception of oil, oil shale, phosphate and potash. The proceeds from the lease and disposition of these minerals should be divided as the oil royalties now are divided between the State wherein found, the Reclamation Fund and the United States Treasury. Such division and use of the proceeds constitute the only real justification for depriving the Western States of these valuable assets with which Nature itself has endowed them.

The grant should probably contain certain regulations for the lease and disposition of the minerals granted to the States.



### **The Grant Should Confer Power Upon the States to Make Exchange of Lands So as to Consolidate Their Holdings**

In the State of Montana, considerable portions of the vacant public lands are checkerboarded with lands granted to the Northern Pacific Railway Company. Authority should be given in the granting act itself to the State Board of Land Commissioners to exchange lands so located with the railroad company so that both the lands of the State and the lands of the railroad company might be consolidated into compact bodies. Probably the power to exchange should not be limited to railroad lands. This consolidation into **suitable grazing units** would be of almost inestimable value for the economical administration and utilization of the lands. It would effect a great saving in fencing and would justify water development and other improvements which could not be made a paying undertaking on smaller units or on scattered tracts.

### **Limitations on the Lease and Disposition of the Lands**

The Act of February 22, 1889, creating the States of North Dakota, South Dakota, Montana and Washington, and making donations of public lands to these States, limits the lands that may be leased to one person or company to one section and places a minimum sales price on the lands granted for educational purposes of \$10.00 per acre. These limitations would be disastrous if applied to the inferior lands now proposed to be granted. The units must be much larger and the limitations on the sales price, if any are fixed in the act, must be such that the lands can be disposed of by the States to individual users within a reasonable time.

The entire plan herein outlined contemplates the transfer of the lands to individual ownership and control without any undue delay.

### **4. Method of Transfer**

The granting act should confer full power upon the Secretary of the Interior to carry the act into effect; he should be invested with authority to determine what particular tracts of land are included in the grant and all questions relating thereto. As soon as the necessary legislation has been enacted, and the grant has been accepted by any one or more States, arrangements should be made to check up the public lands affected by the grant commencing at some suitable point in each State and checking the lands continuously. Numerous cases would arise where field work would be required. As soon as a few townships had been checked, patents should be issued for the lands found available. These patents should clearly recite what reservations, if any, apply to the lands conveyed. The issuance of patents is absolutely necessary so that each State may know exactly when it acquires title and the nature of that title.

This procedure would result in the **gradual** transfer of the public lands from the United States to the States, which unquestionably will be found most convenient and advantageous to both. This gradual transfer, beginning at the earliest convenient date, is highly essential. If no transfer should be made until all the claims outstanding against the

public domain were adjudicated, there might not be any transfer for half a century or even longer, as new claims would arise.

### 5. For What Institutions, Institutions or Purposes Should the Grant Be Made?

Unquestionably the bulk of the lands should be granted for the support and maintenance of the public schools, as suggested by the President. No other agency would distribute the benefits so widely and uniformly among all the people. Through this one magnificent institution, the lands and the proceeds therefrom will operate as a living force in American civilization for ages to come. Only by giving away the public domain in this manner can the Government save it forever. It would be unfortunate to fritter it away by dividing it among a multiplicity of purposes; but it is probable that at least in some of the States there may be an urgent demand for some specific improvement to which a designated portion of the lands might properly be granted.

The State of Montana, for instance, is in pressing need of an administration building for its land department and for other departments of the government. Some 500,000 acres would be required for this purpose. Lands granted for some other than school purposes should be all the lands contained in certain designated contiguous townships.

#### Use of Proceeds

In the case of lands granted for public buildings and similar purposes, both the income from the lands and the proceeds from the sale thereof should be available for the purposes for which the lands were granted; but in the case of the public schools, only the actual income should be available for expenditure, and all proceeds arising from the sale and other permanent disposition of the lands and every part thereof should be placed in a permanent fund to be safely invested and to be guaranteed by the State against diversion or loss.

Recognizing the steadily growing social importance of our public schools, and taking into account the constantly growing taxes required for their support, it may be well to provide for the perpetual growth of the permanent fund by stipulating that 5 per centum or so of the annual income shall be added to this fund.

### 6. What Effect Would This Transfer Have on Conservation and Development?

The plan herein outlined has in view the transfer of the lands to private control and ownership as expeditiously as this can be accomplished without sacrifice of values. It is based on the theory that if the productivity of the grazing lands can be increased and maintained through private ownership, then the continuation of government control for these purposes would be useless, superfluous and wasteful.

When grazing lands in suitable units have passed under private control, certain improvements in management will be sure to follow.

a. Over-grazing will be prevented through proper regulation. Outside stock will be kept away either through herding or fencing, and the occupant of the land will see to it that no more stock is placed on the land than it can reasonably support.

b. The lands will be re-seeded either by allowing the natural flora to re-seed itself or by the planting of seeds selected for the purpose. There are thousands upon thousands of acres of artificially seeded pastures in the State of Montana today. Sweet clover, for instance, has been found to be a very drouth-resisting plant, yielding considerable forage under the most adverse conditions. Thus the annual crop of forage will rapidly increase.

c. The user will be directly interested in the local control of all kinds of pests and also in cooperating in such control over wider areas.

d. A water supply will be developed wherever feasible through the drilling of deep wells and the building of a multitude of reservoirs. This will prevent erosion as far as that can be accomplished, and in many places small patches of lands may also be irrigated from the reservoirs. In some places this will even result in the establishment of new and livable homes.

These beneficent results will follow to some extent when the lands are placed under lease, but the fullest development cannot be expected until the lands are brought into private ownership.

### 7. The Proposed Federal Control of Grazing Lands

There may be members of this Commission who will advocate perpetual Federal control of the grazing lands of the West either through the Forest Service or some other agency of the Government. The Forest Service has been exceedingly useful to the West in the protection and development of its forests, and undoubtedly this branch of the Government would be able to handle the problem with a high degree of efficiency; but the question arises if this would be a proper and necessary field for Government activities.

Let me frankly confess that I have no sympathy whatever for this extravagant plan, and little faith in the soundness and sufficiency of the arguments used to bolster up the prodigal proposal. Arguments can be found or fabricated for Government operation and control of almost any activity; but the vast areas of desert grazing lands of the West present a field that is particularly unsuited for Government regulation and control. The great distances to be traveled and supervised would involve huge expenditures out of all proportion to the results that could be expected. Just think of the great additional army of Government officers and employes that would be required for this service!

Consider the unwieldiness of the machinery and the impediments to constructive work. Suppose a small reservoir should be needed in Rattlesnake Gulch. First a preliminary examination and report would be re-

quired; then a final examination by Government engineers, blueprints and reports. Then after a number of conferences, it might be decided to advertise for bids for the work "according to plans and specifications." The contract might then be let subject to the placing of a satisfactory bond to be approved by the legal staff of the Service. The bond would probably be technically defective resulting in further delay. Finally, however, after a year or two of preliminary skirmishing involving a considerable number of the forces of the United States, a few spans of mules would move up Rattlesnake Gulch, and the little embankment would be built in a week or so under the supervision of Government engineers, subject, of course, to final inspection.

If Rattlesnake Gulch were in private hands, the owner would have his men and mules or tractors do the work in shorter time than it would take to get a preliminary examination by a Government engineer, to say nothing about the comparative cost.

It would be far easier to prove that the Government should carry on all the farming operations of the United States, all the food production and distribution of food stuffs, than to prove that the Government should exercise perpetual control of the range lands of the West.

Friends of the plan tell us that a great saving could be effected in overhead expenses by having one single controlling authority in Washington, D. C., and that a body of trained men, learned in science, and interested in the future, could almost perform miracles in transforming the desert wastes into fields of luxuriant forage. This reasoning is somewhat plausible; but similar arguments may be used with even greater force in advocating that the United States Government should take over the exclusive manufacture, distribution and sale of lipsticks and other cosmetics.

Needless Government guardianship leads to decay and not to development. In order to assure the continuous development of the West, we must harness to its many great and perplexing problems, the self-interest, initiative, energy and intelligence of its millions of brave and independent citizens.

## THE FUTURE OF FEDERAL RECLAMATION

It is well known that it was the original plan of the Government to apply reclamation only to public lands; not to privately owned lands except in an incidental way. In its constitutional aspects the Reclamation Act is probably based on part of Section 3 of Article 4 of the Constitution of the United States providing that "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." When the remaining public lands pass from the United States whether suddenly through a grant to the states or gradually through the operation of the homestead laws and other statutes, so that the Government has divested itself of the title to such lands, the present legal basis for Federal Recla-



mation will no longer exist. It is therefore of fundamental importance to the continuation of Federal Reclamation in the West that the Reclamation Act be amended, so that the fund may be used in reclaiming privately owned lands.

### Two Specific Amendments Needed

One change in policy was suggested in the original proposal of the President to the effect that loans from the Reclamation Fund might be made to community owned projects; to establish this change as a recognized policy of the Government, additional legislation is required. The new legislation should authorize the Secretary of the Interior to make loans from the Reclamation Fund to such projects, within certain fixed limits, without a special act of Congress in each individual case.

There are numerous projects of this kind in Montana that are now in financial difficulties but which are fundamentally sound and which could operate successfully if loans from the Reclamation Fund could be obtained at a low rate of interest or at no interest, and on a long time repayment plan. Unquestionably many safeguards would be required in order to protect the fund from exploitation and loss.

The second amendment to the Reclamation Act should authorize the Secretary to advance money from the Reclamation Fund for new projects on privately owned lands. This would line up Federal reclamation activities much more closely with the present needs and conditions of the West. He should be given blanket authority to finance such projects within certain fixed limits without special legislation in each case. There is little or no public land left in Montana that can be irrigated at a reasonable cost. If we can not use the Reclamation Fund on privately owned lands, the time will soon come when we can not use it at all.

In our state the Federal Reclamation Service could finance such projects on privately owned lands with the minimum of trouble. It should be done only where the owners of the land to be irrigated have organized an irrigation district under the laws of the state and done some of the preliminary work. Engineers of the Reclamation Service and probably the State Engineer should then examine the proposed project and determine its merits. If approved, the irrigation commissioners of the district might let the contracts for construction and carry on the work under the supervision of Engineers of the U. S. Reclamation Service and probably of the State Engineer. On a small project one engineer and a few assistants should be able to supervise the entire project. The money should then be advanced from the Reclamation Fund as the work progressed, be charged to the land and repaid over a series of years as construction charges on other Federal irrigation projects. The plan is simple and workable.

It is evident that money from the Reclamation Fund could be invested with far greater safety in the irrigation of lands already inhabited, developed and improved than in raw, unsettled lands.



### Kind of Irrigation Projects Under This Plan

What kind of irrigation projects would develop under this plan? A considerable number of small projects scattered throughout the states under which a great many farmers would obtain water for part of their lands, leaving the bulk of the land to be farmed without irrigation. This is exactly the kind of irrigation project that Montana needs. A Federal Reclamation project on which a man is expected to carry on all his farming under irrigation is not always a howling success in Montana, although considerable howling is at times heard from some of these projects.

Irrigation farming in Montana will undoubtedly be most successful when carried on as supplementary to farming of non-irrigated lands. There should, if possible, be a few irrigated acres around every farm home, making it possible to grow trees for shade and shelter, raise a garden, maintain a lawn and a few smiling flowers—appropriate surroundings for a man's home—the most sacred institution under the heavens.

It would probably be difficult to think of any change of Government policy for the West that would be more widely and permanently helpful in "The Great Western Strategy" of water conservation and utilization than this encouragement of a great number of small, scattered irrigation projects. It would aid so enormously in home building; it would gradually enrich the vegetation and even improve the climate by breaking the winds somewhat, retarding evaporation and slightly increasing precipitation.

It would also tend to regulate and stabilize the stream-flow. Only a small portion of the water used for irrigation is lost. When the subsoil reservoirs are filled, the water that went into the ground will reappear later on in the season in the form of springs and rills and creeks. The building of reservoirs and the utilization of water for irrigation will retard the run-off and diminish the stream flow during the flood season of the year, but maintain and increase the flow during the dry season.

### Division of Water in Interstate Streams

As each state begins to utilize its water supply more fully for irrigation, domestic purposes and the production of hydro-electric power, the question of dividing the water in rivers running through two or more states is rapidly becoming an acute problem. Western Montana drains almost exclusively into the Clark Fork of the Columbia River. The lower states will naturally want the largest flow of water obtainable especially during the dry season of the year. There are scattered tracts along the Clark Fork and its tributaries in Montana suitable for irrigation, and in the future these tracts will undoubtedly be irrigated. As the population of Western Montana increases, a somewhat larger water supply will also be needed for domestic purposes. This increased demand for water that is likely to arise in future years will slightly diminish the quantity of water flowing out of the State through the Clark Fork. Naturally the

people of Montana are anxious to prevent any water rights to accrue in the lower states which would at any future time interfere with the fullest development of irrigation and other beneficial use of the water in Montana. The findings of the Columbia River Commission are in full accord with the principle that no rights should be allowed to develop along the lower portions of the river that would interfere with the full beneficial use of the water along the upper portions.

It seems possible to formulate a doctrine that is very simple and very just for division of water in interstate streams: let each state forever be entitled to use all the water that originates in that state—that falls there in any form of precipitation; let only water that runs out of a state be subject to division between the states below.

Montana could never consent to any plan of division whereby a lower state could now or at any future time acquire the right to take water away from Montana that is needed for its own use. At the same time, Montana should not attempt to place any obstacles against the full utilization of water flowing out of the State and not needed within its own boundaries.

**LETTER FROM THE HON. J. E. ERICKSON  
GOVERNOR OF MONTANA**

"Hon. I. M. Brandjord,  
Helena, Montana.

Dear Mr. Brandjord:

"I have read with deep interest your very able and illuminating report referring to the disposition of the unappropriated and unreserved public lands in Montana. Your report bristles with timely suggestions as to the solution of the problems involved in the proposed transfer of the public lands of the State and I am sure it will prove helpful to the Commission.

"In the event that the public lands are transferred to the State as proposed recently by President Hoover, I trust that nothing will be done to impair the Federal Reclamation Revolving Fund formed and maintained for the purpose of reclaiming the semi-arid portions of our State. Irrigation is one of the principal agencies of the progress and prosperity of our State. Montana needs the development of a diversified agricultural industry and any attempt to prevent the continuance of this fund will surely retard the growth and well-being of our State.

"One of our real problems at the present time is the construction of a highway system to meet the modern requirements. As you know, the Federal Government is contributing about fifty-six per cent of the costs of roads built on the seven per cent system. This is a tremendous help and is enabling our State to construct an adequate system of highways. I trust therefore that if the transfer of the public domain is made it will in no wise decrease or interfere with our participating in these Federal funds.

"President Hoover suggested to the Salt Lake Conference last summer that the surface rights in the public domain be transferred to the States. I am a firm believer in the proposition that the transfer, if made, should carry with it all mineral rights, including oil and gas. The natural resources should belong to the State where they are found and the State should be free to develop these resources whenever they are needed by the people. Montana does not produce oil and gasoline enough to supply the demand, and immense quantities are being shipped in every year from other states. This means the payment of heavy freight rates and other transportation charges, which add to the burden of all users of gasoline. And it seems to me that if the surface rights and the sub-surface rights are to be administered by different agencies, confusion and embarrassment might arise in the matter of right of ways, trespasses, etc. It seems clear to me that the most convenient and economical way would be for the same authorities to administer both the surface and the mineral rights. It may be contended that the transfer of the mineral rights would impair the Federal Reclamation Fund above referred to because that fund is being maintained from rents and royalties from public lands, but a provision could be easily made to transfer the same percentage to this fund by the State as is now supplied by the Federal Government and I believe that such provision should be made.

"President Hoover clearly did not contemplate the transfer of forest reserves or Indian reservation. However, I believe with you that the portions of these reserves which are more valuable for grazing than the purposes for which they were created should be transferred to the State or else the rules and regulations of the Department should be relaxed so as to make it available for grazing purposes at a reasonable rate and without undue restraint from the Department.

"As to other details so admirably developed in your report I can only refer to it in a very general way, by saying that I believe them to be sound and that they merit careful consideration by the Commission.

"And permit me to say further that Montana is very fortunate in having a representative on this Commission, and you, with your wide experience in the administration of State lands, your intimate knowledge of the public domain within our State, and your capacity for investigation and research, assures us that the interests of Montana will be well cared for."

"Sincerely yours,

"(Signed) J. E. ERICKSON,  
"Governor."

## HISTORY OF THE FEDERAL LAND GRANTS

(Reprinted from the Last Biennial Report)

As all the affairs of the department appear to originate in certain land grants from the Federal Government to the State of Montana, it seems appropriate to give a brief history of these grants. But let us not blindly assume that these land grants constitute the real origin; by such assumption we should fail to realize their deeper significance. Back of these magnificent gifts there lies a great purpose; and to understand this purpose we must understand the spirit that actuated the givers—the Fathers of this Republic—and the age in which they lived.

The idea and purpose of the federal land grants date back to an age that represents a great turning point in human affairs, especially in the sphere of government and social organization, but at the same time an age of darkness and gloom and narrowness and poverty as compared with the richer, larger and sunnier life prevailing throughout large portions of the civilized world today. In that age a government in which all the people had some share was practically unknown; the education of the masses had never been tried and was dreamt of only by a very few; whatever enjoyment and comfort and culture there were for a small portion of society rested very largely upon the enforced toil and drudgery of the masses, and even upon the actual commercial ownership of a great number of human beings by others through the black institution of slavery.

But in this same age there also lived a growing number of altruistic men endowed with sympathetic comprehension of human life and inspired with visions of its liberation and enrichment. In the minds of these there gradually dawned a luminous truth, a guiding light—the consciousness of the worth and value and dignity of the common human life. Listen to the immortal words of Thomas Jefferson in the Declaration of Independence: "We hold these truths to be self-evident: That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness." These truths embody a deep realization of the essential equality of all men, a profound respect and a devout esteem for human life as such, and they breathe the fruitful spirit of living sympathy with a struggling race. It is in reality the spirit of awakening humanity itself speaking through the founders of a nation.

In this spirit and on these principles, our forefathers founded the most stupendous experiment in democracy that the world ever saw; and it is worth noting that this spirit and these principles still remain among the most vital forces in improving political government and social organization. It was the earnest faith and fervent hope of the fathers that this form of government more than any other would insure a high degree of liberty, foster equality, and "aid in the pursuit of happiness." But they realized that in order to make this form of government a successful and enduring institution it was necessary to educate the masses. So they encouraged the establishment of public schools and



inaugurated the policy of granting lands to aid in their perpetual maintenance.

The earliest educational land grants which I have been able to discover date back to the Continental Congress. On May 20th, 1785, this body passed an ordinance reserving "the lot No. 16 of every township for the maintenance of public schools within the said township." This ordinance of the Continental Congress applied only to the "Western Territory," embracing the present states of Wisconsin, Illinois, Indiana, Ohio and Michigan; but from the grants then made developed the general policy of the United States of granting lands for the support of schools. It was gradually extended to all new states having public lands, and the grant was increased to cover two or more sections in each township.

The adoption of this policy is undoubtedly one of the great events in American history. The Public School has wrought mightily in the marvelous making of America. It has been a great power in liberating and enriching the life of the individual, and it has proved itself the most powerful agency under the control of the state for moulding the various and numerous elements of our population into one people and one nation.

There is one other act in the development of the land grant policy of the United States which has had such far-reaching effects that it is more than worthy of special mention. This is the Morrill Act, so named after its author, Justin Smith Morrill, of Vermont. He served as a member of the House of Representatives from 1854 to 1866 and was a member of the Senate from 1867 to his death in 1898. Briefly stated, the act that he formulated provides for the granting "to the several states" of thirty thousand acres of land for each senator and representative in Congress for the "endowment, support and maintenance of at least one college where the leading object shall be" . . . "to teach such branches of learning as are related to agriculture and the mechanic arts" . . . "in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions of life." This Act was first passed by Congress in 1857 but vetoed by President Buchanan. It was passed a second time in 1862 and approved by President Lincoln on July 2nd of that year. Various amendatory and supplementary acts have been passed since that time. Under these acts some seventy colleges have been established throughout the Union.

It is impossible to estimate the enormous benefits that have resulted from these institutions to a country and in an age in which "agriculture and the mechanic arts" have played such a dominant part in the forward march of civilization and in the liberation and enrichment of human life.

The federal land grant policy has been made applicable to the State of Montana mainly through the Enabling Act, admitting the state into the Union. Section 14 of the so-called Organic Act, creating the Territory of Montana "reserved" sections sixteen and thirty-six in each township for school purposes; but the real grant is made through the



Enabling Act. Minor grants for various purposes have been made through subsequent acts. The following statement enumerates all our land grants, shows the acreage of each, and makes reference to the acts under which they were made:

## FEDERAL LAND GRANTS TO THE STATE OF MONTANA.

### Public School Grant. (Sec. 10 of Enabling Act.)

This grant embraces sections 16 and 36 of each township of the state outside permanent national reservations, and makes provision for selecting lieu lands for such of these sections that have been lost to the state.

Total grant about.....	5,188,000 acres
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### State University Grants.

Section 14 of the Enabling Act grants seventy-two sections, to be sold for not less than \$10 per acre, the proceeds to constitute a permanent fund, "the income thereof to be used exclusively for university purposes;" total grant.....

	46,080 acres
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The Act of Congress approved March 9, 1904, (33 Stat. 64) grants the south half and the south half of the north half of Sec. 26, Twp. 13N, of Rge. 19 West, adjoining the original campus "for university purposes"

	480 acres
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The Act of Congress of March 3, 1905, (33 Stat. L. 1080) grants 160 acres for a biological station; this land has been selected on Blue Bay on Flathead Lake .....

	160 acres
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Total .....	46,720 acres
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### Agricultural College Grants.

Sec. 16 of Enabling Act Grants.....

	90,000 acres
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(This is really the Morrill Grant made applicable to Montana.)

Sec. 17 of Enabling Act makes an additional grant of.....

	50,000 acres
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	140,000 acres
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### Grant for School of Mines.

Sec. 17 Enabling Act.....	100,000 acres
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### Grant for State Normal Schools.

Sec. 17 Enabling Act.....	100,000 acres
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**State Reform School Grant.**

Sec. 17 Enabling Act.....	50,000 acres
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**Deaf and Dumb Asylum.**

Sec. 17 Enabling Act.....	50,000 acres
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**Grants for Public Buildings at the State****Capital:**

Sec. 12 of Enabling Act.....	32,000 acres	
Sec. 17 of Enabling Act.....	150,000 acres	182,000 acres

Total of all these grants.....	5,856,720 acres
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**MINOR GRANTS****Militia Camp.**

The Act of Congress approved February 13, 1891, (26 Stat. 748), grants to the State of Montana one section of land within the abandoned Fort Ellis Military Reservation in Gallatin County for a permanent militia camp "or other public uses." The state selected the following lands for these purposes:

SE $\frac{1}{4}$  of SE $\frac{1}{4}$ , Sec. 10; the N $\frac{1}{2}$ , the SW $\frac{1}{4}$ , the W $\frac{1}{2}$ SE $\frac{1}{4}$  and NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Sec. 15, all in Twp. 2 S. of Rge. 6 E. By State Senate concurrent resolution approved January 30, 1923, this land is now dedicated to the Agricultural Experiment Station.

**Grant for Soldiers' Home.**

The Act of March 2nd, 1895, (28 Stat. 938) authorizes the Governor of the State of Montana to select two sections of land within the abandoned Fort Maginnis Military Reservation in Fergus County, "for the maintenance of a soldiers' home, or for other public purposes." But the act further provides that these lands shall be in part satisfaction of the lands already granted to the state by section 17 of the Enabling Act, and consequently this act does not increase the total grants to the State. The State selected a total of 1275.61 acres in sections 1 and 2 of Twp. 16 N. of Rge. 20 E. and in Sections 34 and 35 of Twp. 17N. of Rge. 20E, and deducted this acreage from the State Reform School Grant. At this writing a total of 218.84 acres has been sold at the price of \$18.00 per acre, leaving unsold 1,056.77 acres. All income is available for the maintenance of the Soldiers' Home at Columbia Falls.

**Grant for Agricultural and Manual Training School.**

The Act of Congress approved February 11th, 1915, (38 Stat. 807) authorizes the granting to the State of Montana of 2000 acres of land at the price of \$2.50 per acre within the abandoned Fort Assiniboine Indian Reservation for the establishment of an "agricultural, manual training or other educational institution." The land carried with it valuable buildings. By act of the State legislature approved March 8, 1913, the State of Montana had already made a provision for consummating this deal with the United States, and had established and located "The Northern Montana Agricul-

tural and Manual Training School" at Fort Assiniboine. (Sections 917 to 925 of the Revised Codes of 1921.) The two thousand acres of land were subsequently selected in sections 21, 22, 27, 28, 29, 32, 33 and 34 of Twp. 32 N. of Rge. 15 E., in Hill County.

### State Penitentiary.

The last three lines of Section 15 of the Enabling Act read as follows: "The penitentiary at Deer Lodge City, Montana, and all lands connected therewith and set apart and reserved therefor, are hereby granted to the State of Montana." As far as known this is the smallest land grant made to the State, embracing a little less than nine and three-fourths acres, but it has an interesting history which has been furnished by Frank Conley, a former warden of the State Penitentiary, a summary of which is as follows:

Under date of October 20, 1864, J. S. Pemberton, C. A. Broadwater, and others incorporated as the Deer Lodge Town Company and by the same instrument they also "pre-empted" under a certain townsite act 32 acres of unsurveyed land on the Deer Lodge River.

Under date of January 16, 1868, these incorporators proceeded to plat this land as "Deer Lodge City, in Deer Lodge County, Montana Territory." The plat was filed for record in Deer Lodge County August 6, 1869.

Under date of March 3, 1868, this townsite company deeded certain blocks to the United States of America in consideration of the sum of \$500.00 for penitentiary purposes.

Under date of June 29, 1868, the same townsite company executed a quit claim deed to the United States of America covering the same land in order to convey better title. This conveyance covers all of Blocks 90, 104, 115 and parts of Blocks 89, 105, 114, and parts of certain streets, containing in all 420,320 square feet, according to the plat of Deer Lodge City at that time.

Since that time the plat has been changed and according to Frank Conley the land above described is the same as Blocks 52, 53, 62 and the E $\frac{1}{2}$  of Blocks 63 and 67 of the present townsite.

It appears that at the time of these conveyances to the United States, the Deer Lodge Town Company had not obtained good title from the United States to the land embraced within the townsite. Under date of June 15, 1872, the United States of America issued a patent to D. P. Newcomer, Probate Judge of Deer Lodge County, Montana Territory, to the land originally pre-empted by the townsite company and platted as Deer Lodge City to be held "in trust for the several use and benefit of the occupants of the townsite of Deer Lodge according to their respective interests." There is no record of any conveyance from Judge Newcomer to the State of Montana, but the last three lines of Section 15 of the Enabling Act, above quoted, do undoubtedly give title to the State of Montana to the land in question together with all buildings and improvements thereon.

The complete history of the penitentiary grant has been presented to the State Historical Library.

LEGAL DECISIONS OF SPECIAL INTEREST TO THIS  
DEPARTMENT

Title to Sections 16 and 36 Vests in the State on the Date that the Survey Thereof is approved by the Commissioner of the General Land Office.

The question frequently arises as to the exact time when title to a certain school section vested in the State. In order to get accurate information on this point from an authoritative source, the question was submitted to the Hon. E. C. Finney, Solicitor of the Department of the Interior, and a recognized authority on all legal questions involving public land matters. The following reply was received dated June 6th, 1930:

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
Office of the Solicitor  
Washington

June 6, 1930.

"Hon. I. M. Brandjord,  
Commissioner of State Lands,  
Helena, Montana.

My dear Mr. Commissioner:

Answering your question as to when title to school sections (16 and 36, etc.) vests in the State, I have to advise you as follows: Under the several granting acts to States of sections in place for the support of public schools, the title of the State vests if the lands are not reserved or known to be mineral at date of the approval of the survey by the Commissioner of the General Land Office. See State of Colorado (7 L. D. 459); United States v. Morrison (240 U. S. 192), and Wisconsin v. Lane (245 U. S. 427). In the Morrison case the Supreme Court said that the making of the field survey and its approval by the Surveyor General of Oregon did not make the survey complete. It still remained subject to examination and approval of the Commissioner. And this is clearly set out in the syllabus of the same decision in these words: "A survey is incomplete until formally approved by the Commissioner."

With respect to the rights of homestead and preemption settlers on unsurveyed school lands, the rule is made different by Section 2275 R. S., as amended by the act of February 28, 1891, (26 Stat. 796), which provides that where settlements under the preemption or homestead laws shall have been made before a survey of the lands "in the field" and which are found to have been made on sections 16 or 36, the settler's claim shall be sustained and the State allowed to take lieu lands therefor.

Trusting this is the information you desired, and with regards, I am,

Sincerely yours,

(Signed) E. C. FINNEY,  
Solicitor."

### Title to School Sections Can Not Be Obtained Through Exercise of the Right of Eminent Domain (42 Mont. 105)

In April, 1910, an action was begun in the District Court of Sanders County for the purpose of condemning portions of Section 36, Twp. 22 N., Range 30 W. by the exercise of the power of eminent domain, the land being wanted for power site purposes. Before the case was fully decided in the District Court, it found its way into the Supreme Court of the State. In deciding the case, the Court cites provisions of the Enabling Act granting these lands to the State and of the Constitution accepting the land grants on the terms and conditions upon which they were made, as follows: "It is expressly declared in the Enabling Act that the territory of Montana may become the State of Montana 'as hereinafter provided'; that 'Sections 16 and 36 are hereby granted for the support of common schools'; that 'all lands herein granted for educational purposes shall be disposed of **only at public sale**.'" \* \* \* "Neither is there any authority in the State to change the terms of the grant without the consent of the Congress of the United States. The framers of the state constitution did not attempt to do so. They expressly agreed, for the state not to dispose of any lands granted by the United States in any case in which the manner of disposal was prescribed in the grant, except in the manner prescribed, without the consent of the United States."

The Court further says: "The Congress is presumed to have had good and sufficient reason for thus restricting the right of alienation, and the state solemnly accepted the conditions. If those restrictive words can be disregarded in favor of the right to exercise eminent domain, then the condition of the grant is not general in its application, as its phraseology would appear to indicate, exceptions may be read into it, and the entering wedge be inserted by which the safeguard may be entirely broken down and removed."

The final conclusion is as follows: "While it is true that the power of eminent domain is one of the inherent and inalienable rights of sovereignty, and may ordinarily be exercised over all property within the jurisdiction of the state, it is not to be supposed that this right is so limitless as to enable the state to violate its contract with the federal government."

### No Title to State School Lands Can Be Obtained Through Adverse Possession

On February 19th, 1930, the Supreme Court handed down a decision definitely deciding this point. The case is entitled "Phila Louise Newton vs. Frank Weiler." One of the points in the case involved an irrigation ditch which had been located and operated for many years over a school section, and the claim was made that title to the right of way had been obtained through adverse possession. In deciding this point the Court followed the same line of reasoning as it did in the case involving the right to take school lands through proceedings in eminent domain and reached the following conclusion:



"If our statutes of limitations respecting the state were construed as authorizing the right of one to obtain title to, or any estate or interest in, any part of the school lands of the State by adverse possession, it would readily appear that they would impinge upon the terms of the grant from the United States and conflict with Section 1, Article XVII of our Constitution. We are of opinion, however, that it was not the intention of the legislature to thwart the plain purpose of our Constitution by attempting to make the statutes of limitations applicable against the state in respect to school lands granted to it by the United States and that no title thereto, or interest therein, may be acquired by adverse possession."

These two decisions will be of great value to the State in numerous cases. The Supreme Court of our State has not permitted "the entering wedge" to be driven into the wall that the Enabling Act and the Constitution have builded around our school land grants; on the contrary the Court has defended and preserved this defensive wall in its original form and strength.

## NEW LEGISLATION NEEDED

### Leasing of State Lands

An amendment should be made to Chapter 60 of the 1927 Session Laws; the State Board of Land Commissioners should be given the power to provide for public leasings of State lands throughout the various counties whenever such procedure is deemed necessary. A plan for such public leasings was contained in the original bill now embodied in the said Chapter 60, but was lost in the legislature. Experience has abundantly demonstrated that we cannot always render satisfactory service to prospective lessees through correspondence alone. The information as to what lands are available for leasing, the amount of rentals and the terms and conditions on which the lands may be leased, should be made more easily available, and public leasings would unquestionably be the best method. Legislation on this subject is urgently needed. It would undoubtedly aid materially in placing more lands under lease. A similar recommendation was made in this report two years ago.

### Amendment of Section 2, Article XVII of the State Constitution

Under the provisions of this section of the Constitution as it now stands, all State lands within the limits of any town or city, or within three miles of such limits, "shall be sold in alternate lots of not more than five acres each." The Supreme Court of the State has defined the meaning of the words "town or city" as here used, and under this definition it appears that any platted townsite with a post office and a few places of business and residences constitutes a town or city.

Considering the great number of such towns or cities now found within the boundaries of the State, it will readily be seen that these provisions for selling all State lands within three miles of their limits

in alternate lots of not more than five acres each, constitute a serious difficulty in the sale of lands. At the present time the effect of these provisions is directly opposite to what was intended. It deters people from bidding on lands so situated. These provisions of the Constitution should therefore be repealed.

Being that an amendment is necessary, it may also be the part of wisdom to embody in the proposed amendment such other pertinent changes relating to State lands as experience and development subsequent to the enactment of the Constitution appear to recommend.

The same recommendation was made in this report two years ago. A bill was introduced in the State Legislature and seemed to meet with general approval; but it was sidetracked in the Committee on Constitutional Amendments to give way for other amendments which seemed more important.

### Trespass on State Lands

Chapter 189 of the 1925 Session Laws deals with the subject of trespass on State lands and prescribes fines. This measure has proved to be very helpful in numerous cases, but it is not quite as clear as might be desirable and it has also been found that there are many cases which it does not cover. New statutes should be written on this subject defining various kinds of trespass on State lands and prescribing reasonable fines and penalties. The bill should be such as to give adequate protection to the property of the State without working any hardship upon the law-abiding users of State lands.

### Settlement With the Public School Permanent Fund for Money Invested in Farm Loans

(The same recommendations were made two years ago.)

On July 1, 1930, the total unpaid investment in State farm loans was \$4,301,561.94. Only a small fraction of these investments is being repaid according to the terms and conditions of the original loans; the State has found it necessary to pay taxes and other costs exceeding half a million dollars in order to protect its title to the mortgaged lands, and the estimated amount of delinquent interest on June 30, 1930, was \$975,000.00. (See Table No. XIII, Condition of State Farm Loans, June 30, 1930, and the discussion following.) The general state of these investments is such that they do not constitute a satisfactory investment for the Public School Permanent Fund.

This investment, like other investments from the Public School Permanent Fund, is guaranteed by the Constitution against diversion or loss, and it appears that this guarantee should now be carried into effect.

A proposed bill on this subject has already been prepared by this department for the consideration of the State Board of Land Commissioners, members of the Legislative Assembly, and all other interested persons. It proposes that the State itself shall take over the farm loans,

all the lands to which the State has taken title under these loans, and all rights and equities whatsoever arising in connection therewith. It is proposed that the State shall pay interest on the amount invested in such loans at the rate of  $4\frac{1}{2}\%$  per annum, and both the interest and the principal are to be repaid from the loans and assets taken over by the State as far as that can be done, and as rapidly as the collections will permit.

### Legal Assumption Involved

The proposed bill assumes that under the plain provision of Section 3 of Article XI of the Constitution the State is liable for the safe-keeping of the Public School Permanent Fund. The liability for the repayment of the amount invested in farm loans is therefore created by the Constitution itself and not by the proposed act. For these reasons the taking over of the farm loans on the part of the State does not constitute a violation of Section 2 of Article XIII of the Constitution. It cannot be unconstitutional to carry into effect the provisions of the Constitution. The entire plan rests on this basic assumption; if this assumption is erroneous, the whole measure will fall.

### Simple and Advantageous Both to the State and the Public School Fund

The proposed bill insures to the Public School Fund interest at the fixed rate of  $4\frac{1}{2}\%$  per annum on the actual investment. Under the present condition of the loans it is often difficult to calculate what part of a collection is interest and what part is principal for the reason that when loans are foreclosed and the lands resold, unpaid interest on the original loan is included in the principal of the thirty-three-year amortization contract. Unless a settlement along the lines proposed is adopted this condition will become more and more complex as the years go by.

It would fix the amount of the loans so permanently that the numerous changes in the various assets representing the loans through foreclosure proceedings, payment of taxes, sales, cancellation of sales contracts and resales would never bring into doubt the actual and exact amount of the investment.

By permitting the State to apply the collections from time to time made on interest and principal it would enable the State to extinguish the principal just as fast and just as slow as the collections permitted. Probably no better repayment plan could be devised for the State. And on account of the constant investments now being made from the public school permanent fund, these irregular repayments on principal would not be detrimental to the fund itself.

Taken as a whole it is thought that the proposed bill embodies a simple, honest and workable plan of settlement. It should also give to the officers and people of the State the satisfaction of knowing that they have endeavored to discharge with fidelity the sacred trust assumed by them of safekeeping the Public School Permanent Fund.



